

# Public Document Pack

## Lewisham Council Members

Members of the committee, listed below, are summoned to attend the meeting to be held on Wednesday, 17 September 2014.



Barry Quirk, Chief Executive  
September 8 2014

Councillor Obajimi Adefiranye

Councillor Abdeslam Amrani

Councillor Chris Barnham

Councillor Paul Bell

Councillor Peter Bernards

Councillor Chris Best

Councillor Kevin Bonavia

Councillor Andre Bourne

Councillor David Britton

Councillor Bill Brown

Mayor Sir Steve Bullock

Councillor Suzannah Clarke

Councillor John Coughlin

Councillor Liam Curran

Councillor Janet Daby

Councillor Brenda Dacres

Councillor Amanda De Ryk

Councillor Joe Dromey

Councillor Damien Egan  
Councillor Colin Elliott  
Councillor Alan Hall  
Councillor Carl Handley  
Councillor Maja Hilton  
Councillor Simon Hooks  
Councillor Ami Ibitson  
Councillor Mark Ingleby  
Councillor Stella Jeffrey  
Councillor Liz Johnston-Franklin  
Councillor Alicia Kennedy  
Councillor Roy Kennedy  
Councillor Helen Klier  
Councillor Jim Mallory  
Councillor Paul Maslin  
Councillor David Michael  
Councillor Joan Millbank  
Councillor Jamie Milne  
Councillor Hilary Moore  
Councillor Pauline Morrison  
Councillor John Muldoon  
Councillor Olurotimi Ogunbadewa  
Councillor Rachel Onikosi  
Councillor Crada Onuegbu  
Councillor Jacq Paschoud  
Councillor John Paschoud  
Councillor Pat Raven  
Councillor Joan Reid

Councillor Gareth Siddorn

Councillor Jonathan Slater

Councillor Alan Smith

Councillor Luke Sorba

Councillor Eva Stamirowski

Councillor Alan Till

Councillor Paul Upex

Councillor James-J Walsh

Councillor Susan Wise



# Council Agenda

Wednesday, 17 September 2014

**8.00 pm**, Deptford Green School, Edward Street, SE14 6LU

The Council is asked to note the meeting will be preceded at **7.30pm** with an exchange of views between elected members of Lewisham Council, elected members of the Deptford Green school council and aspiring young Mayors of Lewisham. They will each talk about what it means to be elected and to have the honour and responsibility to represent their colleagues, peers and fellow citizens. The meeting is then expected to consider the matters listed below:

For more information contact: Kevin Flaherty 0208 3149327 (Tel: 0208 314 9327)

## Part 1

Item	Pages
1. Declarations of Interests	1 - 3
2. Minutes	4
3. Petitions	5
4. Public questions	6 - 138
5. Member questions	139 - 161
6. Announcements or Communications	162
7. Audit of 2013-14 Final Accounts	163 - 264
8. Planning Obligations Supplementary Planning Document - draft for public consultation	265 - 352
9. Constitutional Change	353 - 797
10. London LGPS Collective Investment Vehicle	798 - 807
11. Municipal Bonds Agency	808 - 823
12. Members Allowances 2014	824 - 862
13. Appointments	863 - 864
14. Action by Chair of Council	865 - 866

Members of the public are welcome to attend committee meetings. However, occasionally, committees may have to consider some business in private. Copies of agendas, minutes and reports are available on request in Braille, in large print, on audio tape, on computer disk or in other languages.

- |     |  |     |
|-----|--|-----|
| 15. | Motion 1 Proposed by Councillor Sorba Seconded by Councillor Jeffrey | 867 |
| 16. | Motion 2 Proposed by Councillor Hall Seconded by Councillor Morrison | 868 |

Members of the public are welcome to attend committee meetings. However, occasionally, committees may have to consider some business in private. Copies of agendas, minutes and reports are available on request in Braille, in large print, on audio tape, on computer disk or in other languages.

# Agenda Item 1

COUNCIL		
<b>Report Title</b>	Declarations of Interests	
<b>Key Decision</b>		Item No. 1
<b>Ward</b>		
<b>Contributors</b>	Chief Executive	
<b>Class</b>	Part 1	Date: September 17 2014

## Declaration of interests

Members are asked to declare any personal interest they have in any item on the agenda.

### 1 Personal interests

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (1) Disclosable pecuniary interests
- (2) Other registerable interests
- (3) Non-registerable interests

### 2 Disclosable pecuniary interests are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person\* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person\* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.
- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member's knowledge, the Council is landlord and the tenant is a firm in which the relevant person\* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:-

- (a) that body to the member's knowledge has a place of business or land in the borough; and
- (b) either
  - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or
  - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person\* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

\*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

### **(3) Other registerable interests**

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council
- (b) Any body exercising functions of a public nature or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25

### **(4) Non registerable interests**

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members' Interests (for example a matter concerning the closure of a school at which a Member's child attends).

### **(5) Declaration and Impact of interest on members' participation**

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine**

### **of up to £5000**

- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.
- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their, family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

### **(6) Sensitive information**

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

### **(7) Exempt categories**

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

# Agenda Item 2

COUNCIL		
<b>Report Title</b>	Minutes	
<b>Key Decision</b>		Item No.2
<b>Ward</b>		
<b>Contributors</b>	Chief Executive	
<b>Class</b>	Part 1	Date: September 17 2014

## Recommendation

It is recommended that the minutes of the meetings of the Council which was open to the press and public, held on June 11 2014 be confirmed and signed (copies previously circulated).

# Agenda Item 3

COUNCIL		
<b>Report Title</b>	Petitions	
<b>Key Decision</b>	no	Item No.
<b>Ward</b>	n/a	
<b>Contributors</b>	Chief Executive (Head of Business & Committee)	
<b>Class</b>	Part 1	Date: September 17 2014

1. The Council is invited to receive petitions (if any) from members of the Council or the public. There is no requirement for Councillors to give prior notice of any petitions that might be presented.
2. The Council welcomes petitions from the public and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 14 days of receipt. This acknowledgement will set out what we plan to do with the petition.
3. Paper petitions can be sent to :-  
  
Governance Support, Town Hall, Catford, SE6 4RU  
  
Or be created, signed and submitted on line by following this link  
  
<http://lewisham-consult.limehouse.co.uk/portal/petitions>
4. Petitions can also be presented to a meeting of the Council. Anyone who would like to present a petition at a Council meeting, or would like a Councillor to present it on their behalf, should contact the Governance Support Unit on 0208 3149327 at least 5 working days before the meeting.
5. Public petitions that meet the conditions described in the Council's published petitions scheme and which have been notified in advance, will be accepted and may be presented from the public gallery at the meeting.

# Agenda Item 4

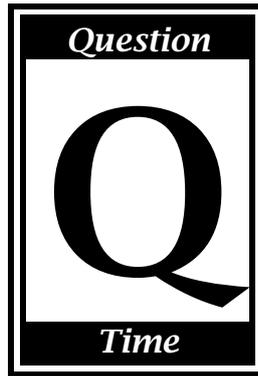
COUNCIL		
<b>Report Title</b>	Public Questions	
<b>Key Decision</b>		Item No.5
<b>Ward</b>		
<b>Contributors</b>	Chief Executive (Head of Business & Committee)	
<b>Class</b>	Part 1	Date: September 17 2014

The Council has received questions from members of the public in the order shown in the table below. Written responses will be provided to the questioners prior to the Council meeting and they will be entitled to attend and ask a supplementary question should they wish to.

**Question**      **Questioner**

1.	Sue Luxton
2.	Brian Pope
3.	John Hamilton
4.	Ray Woolford
5.	David Edgerton
6.	Mrs Richardson
7.	Mr M Allen
8.	Marietta Stankova
9.	Mr Richardson
10.	Mr Maxton
11.	Julie Pannell-Roe
12.	Helen Mercer
13.	Natalie Doucy
14.	Atanas Christey
15.	Emman Warren
16.	Sarah McMichael
17.	Kate Quarry
18.	Mr Bull
19.	James Stanbury
20.	S Chishtie
21.	Glynis Tomes
22.	E Kettlewell
23.	Diana Stevenson
24.	Damian Griffiths
25.	Mr Nisbet
26.	Caroline Bray
27.	Julie Williams
28.	Bilal Khan
29.	Clare Griffiths

30.	Mark Nightingale
31.	Brian Haines
32.	Thom Townsend
33.	Julia Fletcher
34.	June Jolly
35.	Stewart Whitworth
36.	Rik Andrew
37.	Julia Brundell
38.	Maggie Poe
39.	Dave Plummer
40.	John Hamilton
41.	Ray Woolford
42.	David Edgerton
43.	Mrs Richardson
44.	Sue Luxton
45.	Mr Maxton
46.	Mr Richardson
47.	Sarah McMichael
48.	Julia Fletcher
49.	Stewart Whitworth
50.	Dave Plummer
51.	John Hamilton
52.	David Edgerton
53.	Mrs Richardson
54.	Sue Luxton
55.	Mr Maxton
56.	Mr Richardson
57.	Ray Woolford
58.	Sarah McMichael
59.	Julia Fletcher
60.	Mrs Richardson
61.	Mr Maxton
62.	Sarah McMichael
63.	Ray Woolford
64.	Mr Richardson
65.	Sarah McMichael
66.	Mrs Richardson
67.	Mr Richardson
68.	Sarah McMichael
69.	Mrs Richardson
70.	Sarah McMichael
71.	Sarah McMichael
72.	Sarah McMichael
73.	Sarah McMichael
74.	Sarah McMichael



**PUBLIC QUESTION NO 1.**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sue Luxton

Member to reply: Cllr Best

**Question**

One of the key arguments made for the replacement of Ladywell Leisure Centre with a new facility was that it was energy inefficient and expensive to run. Is any data available yet to show running costs (electricity, heating) of the Glass Mill compared to Ladywell Leisure Centre?

**Reply**

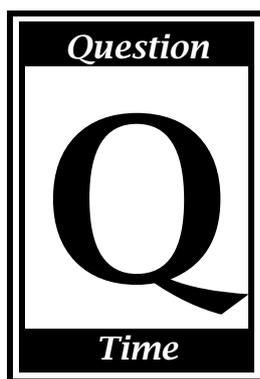
In its final 12 months of operation (July 2012 – June 2013), Ladywell Leisure Centre consumed the following kWh's in electricity and gas:

Electricity – 359,587

Gas – 1,706,374

For the corresponding 12 months of operation (July 2013 – June 2014), Glass Mill Leisure Centre consumed the following kWh's in electricity (it does not receive gas):

Electricity – 241,033



**PUBLIC QUESTION NO 2.**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Brian Pope

Member to reply: Councillor Bonavia

**Question**

Why do we need a Chief Executive and a Council Tax Department when residents can pay their bills at Housing Offices and local Post Offices? How much money could be saved by abolishing the post of Chief Executive and the entire Council Tax Department?

**Reply**

Local authorities have a legal requirement to designate one of their officers as the Head of Paid Service and this is almost invariably the Chief Executive. As the principal policy adviser, the Chief Executive ensures that central government legislation is translated and is implemented locally through policy planning, reporting arrangements and strong performance management systems.

The role of Chief Executive has a number of responsibilities, which are set out in various legislation. These include: establishing and maintaining an appropriate structure for the Council; ensuring that Council decisions are implemented promptly; overseeing the daily management of the Council's operations; and providing timely information to the Council. The role also involves working closely with elected

members to provide leadership and strategic direction. These responsibilities are particularly important when an organisation is undergoing significant change.

The total cost for the post of Chief Executive is currently £130,000 per annum (including salary and National Insurance contribution). Any saving realised in deleting the post would need to be offset by the cost of any additional arrangements, which would need to be put in place to ensure that the functions of the post are performed effectively.

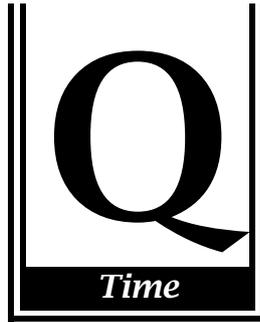
Council Tax collection is much more than just providing Council Tax payers with somewhere to pay. The efficient and effective collection of £106 million Council Tax from 120,000 households requires the Council to send an annual bill and to follow up on those people who do not pay with reminders and enforcement action. The service also deals with changes to accounts throughout the year and the administration of discounts, exemptions, reductions and reliefs.

Last year the Council Tax service:

- sent 74,000 notices reminding customers to pay
- summonsed 35,000 to court for non payment
- answered more than 115,000 phone calls
- dealt with 145,000 emails, online forms and correspondence

The cost of the Council Tax collection service is £2.5 million. However, this cost is offset in part by the service's generation of income of £1.2 million from enforcement fees levied against those who do not pay. If the Council did not have a Council Tax collection service, it would not be able to collect as much as it currently does, or assist those who need help in making payments, or ultimately enforce against those who continue not to pay to the detriment of other residents who do.

**Question**



**PUBLIC QUESTION NO 3.**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Hamilton

Member to reply: Mayor

**Question**

Lewisham People Before Profit welcomes the Mayor's announcement that he intends to build 500 council homes for rent by 2018. In election literature it appeared that these homes would be built by a Direct Labour team. Could the Mayor elaborate on the plans and include a rough costing showing how long the rental income will take to cover the cost of building and maintenance?

**Reply**

Contracts for the construction of the new homes built by the Council, and supported by Lewisham Homes, will be awarded to experienced house builders, following tendering processes to identify contracts that offer the best value for money for the Council. New homes will not be constructed by a Direct Labour Team. The Council has strong provisions in its procurement practice to enable local companies to bid for the construction contracts arising from this project.

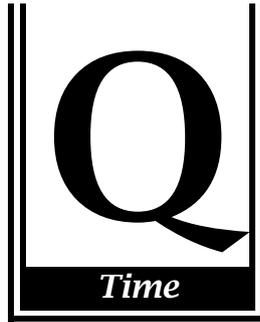
As part of the scheme design and appraisal process officers undertake due diligence on the cost of works and the time to repay investment on any scheme. On all of the build projects agreed so far the new homes will repay the initial investment through rental income within period of 35 years. This is possible in part as a result of capital subsidy from the GLA of £6.14m and the mixed tenure approach that the Council is

employing. Under this approach 625 new homes will be built in total, of which 500 will be new council homes and an additional 125 homes will be made available for sale. The receipts from the sale of these homes enable the Council to deliver the target of 500 new Council homes, to maintain rents for those at social rent levels, and still to ensure that the new investment can be repaid within an acceptable period.

It should also be noted that the direct provision of new homes is just one aspect of the Council's wider programme to maximise the supply of new housing. In addition to building homes itself, the Council is:

- working with housing association partners to bring forward 110 new specialised homes for older residents;
- purchasing and converting disused or under-used assets to expand the provision of better emergency accommodation for homeless households;
- working with residents to facilitate a community-led self build scheme, and;
- exploring the potential to use modern methods of construction to speed up the development process and respond even quicker to the housing challenge the borough faces.

**Question**



**PUBLIC QUESTION NO. 4**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Woolford

Member to reply: Cllr Maslin

**Question**

Sir Francis Drake Primary School parents and teachers have very real concerns, that new development plans will lead to a decline in education achievement due to the fact that new class rooms will be much smaller, teachers will be expected to teach many more children at a school that has turned the corner with many children flourishing due to the space the school offers and the quality of the teaching at present class sizes.

Would the Council agree that the former Tidemill site in Deptford should be the preferred option if the Council is serious about driving up education standards for all our children.

**Reply**

Sir Francis Drake Primary School is to be rebuilt and enlarged to two forms of entry through the government-funded Priority Schools Building Programme. This will replace buildings which are in poor condition and provide school places in an area undergoing redevelopment. The designs are under development and will conform to the guidance on school sizes set out in the government's March 2014 publication, *Baseline Designs for Schools*, (<https://www.gov.uk/government/publications/baseline-designs-for-schools->

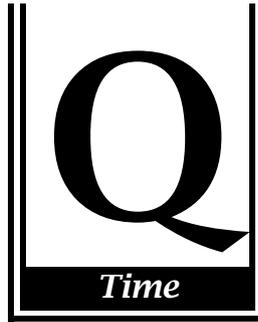
[guidance/baseline-designs-for-schools-guidance](#)). Officers are confident that classrooms will be fit for purpose.

Pupil numbers in Lewisham have increased significantly since 2008. 75% of Lewisham schools have been partially enlarged and 20% have been permanently enlarged. During the same period, Lewisham Primary schools have continued to improve and are now amongst the highest achieving schools in the country. We are confident that the Governors of Sir Francis Drake Primary school will maintain their current high standards as the school gradually increases in size.

Governors and senior managers at the school are closely involved in the design process, which will be concluded in the autumn term 2014. A further report on the results of this engagement process is due to go to Mayor and Cabinet once these discussions are concluded.

The former Tidemill site in Deptford is not available for educational use. Its disposal forms an essential part of the Deptford Southern Scheme and as such is a key element of the regeneration programme for Deptford. Both of the sites around and including the old Tidemill school will be redeveloped for new housing, and a new park and housing at the former site of Deptford Green School at Amersham Vale will also be provided.

**Question**



**PUBLIC QUESTION NO. 5**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Edgerton

Member to reply: Deputy Mayor

**Question**

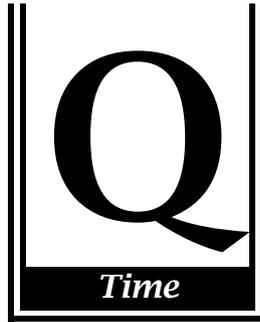
Would you like to ride my mobility scooter around Deptford Park which, surprisingly, has Green Flag status? There is also a lack of drop kerbs in Evelyn Ward; will you commit to ensure that every street in Lewisham is accessible to all?

**Reply**

The Council recognises the poor condition of some of its footpaths in public parks and is endeavouring to secure funding to resurface significant areas that are past repair. You will be aware that a few years ago the main entrance and part of the circular pathway was resurfaced to a high standard. This funding was secured from local development contributions and it is the intention to secure additional funding over the next 12 months to resurface the remaining pathways.

Improving accessibility is a key tenet of the borough's transport strategy, the Local Implementation Plan. Introducing dropped kerbs is an important measure to ensure footways are accessible to all, and are built into the design approach on all relevant transport projects.

***Question***



**PUBLIC QUESTION NO. 6**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Patricia Richardson

Member to reply: Deputy Mayor

**Question**

How many properties in the new Leegate development will be available as affordable housing to rent? Does the council consider it will be able to sustain the costs of rent rebates to enable the less well-off to be able to rent such properties, if the true cost of rent is the going rate for marketable rents in the area? What will be the impact of the numbers of new residents on local schools, GPs and space?

One of the stated aims of the redevelopment is to provide more competition in retailing. Competition from another supermarket may well damage some of the smaller businesses thus eradicating the competitive factor. Has the Council researched such possible effects and what was the outcome? Also what happens to these businesses while the new centre is under construction and local residents have less competition? Has the council taken these possibilities into account when formulating its planning policy?

How many properties in the new Leegate development will be available as affordable housing to rent? Does the council consider it will be able to sustain the costs of rent rebates to enable the less well-off to be able to rent such properties, if the true cost

of rent is the going rate for marketable rents in the area? What will be the impact of the numbers of new residents on local schools, GPs and space?

One of the stated aims of the redevelopment is to provide more competition in retailing. Competition from another supermarket may well damage some of the smaller businesses thus eradicating the competitive factor. Has the Council researched such possible effects and what was the outcome? Also what happens to these businesses while the new centre is under construction and local residents have less competition? Has the council taken these possibilities into account when formulating its planning policy?

### **Reply**

This note has been prepared in response to a significant number of public questions that are to be raised at the Council Meeting on 17 September.

#### **The site and its context**

The Leegate Centre is situated at the junction of Burnt Ash Road and Eltham Road which comprises the A20 running west to Lewisham and central London, or south-east to both the M20 and M25. The South Circular A205 is a short distance away to the south and there are numerous bus routes with pick up/drop off points immediately adjacent.

To the south of the shopping centre lies a large multi-storey car park and former petrol station, both of which form part of the site boundary for redevelopment.

- The site area is 1.53 hectares (including the car park and petrol station).
- The site has a Public Transport Accessibility Level (PTAL) rating of 3,
- The site is located within a Flood Zone
- The Lee Manor Conservation Area is located 100m to the south of the site.
- There is an existing public square in the north east corner of the site with trees that are protected by Preservation Orders (TPO). In principle, Officers consider the loss of this public square to be acceptable provided the development includes re-provision of high quality public realm and mature trees as part of the landscaping.
- To the north and north east, there are three Listed Buildings

The centre has been in relative decline for a number of years and Officers are of the opinion that a comprehensive redevelopment would provide the best solution to revitalising the centre and the retail offer in particular. The redevelopment opportunities for the site are supported by the Council's adopted Core Strategy and the Site Allocations Development Plan Document (DPD) which states the Council's preferred option for development as being 'retail led mixed use including housing, offices and hotel'.

#### **Planning Policy**

The Core Strategy defines Lee Green as a District Hub within which the town centre is designated as a District centre in the borough's retail hierarchy.

Spatial Policy 3 identifies district hubs as places which will sustain a diversity of uses and activities. Such locations will be managed to facilitate change that contributes to the economic vitality and viability of the District centre. The policy specifically states that the objectives for Lee Green are to improve civic space and facilitate a more intensive mixed use development on the shopping centre site and to improve connectivity between the shopping centre and the supermarket sites.

The Lewisham Site Allocations DPD (June 2013) refers to Lee Gate as Site SA23; a centre with underutilised land and regeneration potential. The policy document goes further to suggest an indicative housing provision of 130 dwellings. The Retail Capacity Study is quoted and warns that the continued decline of the Leegate Centre as being a threat to the Lee Green District Centre, and identifies the redevelopment or refurbishment of the Centre as an opportunity to provide modern retail units.

To summarise, the shopping centre is considered to form a significant part of the Primary Shopping Area within the Lee Green District Centre and its successful redevelopment would support and enforce the role of the District Centre within the borough's retail hierarchy.

### **The proposal**

Historically, the owners, St Modwen, were seeking to explore redevelopment of the site comprising a new supermarket on the southern section together with conversion of some of the existing buildings on the northern end.

The proposition of conversion and refurbishment has been discounted in its entirety because Officers believe that retention of the existing buildings places considerable constraints on how the site could deliver better public realm, permeability/legibility. Further, the existing buildings do not make a positive contribution to the townscape and Officers believe that they would require significantly more than refurbishment to make them attractive in the townscape. It is considered that a comprehensive mixed use development of the entire site is necessary to deliver a high quality, design led scheme that will make a positive and sustainable contribution to the district centre.

The applicant is now proposing complete demolition to facilitate a comprehensive mixed use development with a supermarket as the anchor to support a range of other commercial uses and over 200 residential units. In principle, a proposal of this nature accords with adopted planning policies.

Key principles of the current proposal include:

- Comprehensive redevelopment of the site comprising total demolition and replacement of the Leegate Centre with high quality new buildings
- Provision of a new supermarket together with other retail uses (A1-A4), a gym, education facility and community facility
- Enhanced permeability, through the opening and regeneration of Carston Close (north)
- High quality public realm provided in a new public square along Burnt Ash Road and improvements to Leyland and Eltham Roads

- Opportunity to increase density taking into account renewed planning guidance for sustainable town centre locations.
- The provision of a significant number of new homes, with new private and affordable housing ensuring a greater mix of local housing choice.
- Provision of an upgraded car park to serve the supermarket and District centre.

Officers consider the principle of a mixed use scheme comprising a supermarket anchor, A1/A2/A3/A4 and D1/D2 uses, as well as a significant number of residential units to be acceptable subject to the uses being located appropriately within the development and in the context of the existing environs.

The use class for a supermarket is A1 retail which is considered to be an appropriate use for a District Centre location. On balance, a large anchor supermarket is considered to be a reasonable form of enabling development. However the proposal also includes an opportunity for a number of small retail units that could be occupied by local independent businesses. As part of the application, St. Modwen will submit a retail study and an economic regeneration statement which will discuss capacity for the uses proposed, employment generation and measures to deal with existing businesses. Asda has been identified as the potential operator of the supermarket and has signed a Development Agreement with St Modwen. Nevertheless, the proposal will include reference to use classes and not specific operators and it is not for planning to consider the workings of individual companies.

The provision of civic space, public realm and permeability is an important element of the proposal which has been subject to a significant level of negotiation both with Officers and the Lewisham Design Review Panel. It is considered important to secure high quality public realm as part of the proposals as well as increasing permeability and connectivity to, from and through the site. An important part of this has been to create four active street edges, as well as a new public space, incorporating space allocated for market stalls on Burnt Ash Road.

The scale, mass and design of the proposed buildings have also been discussed at length with officers and the Design Review Panel. Officers will aim to secure an appropriate form and massing through the pre-application process. The evolution of the design will be set out in the Design and Access Statement and the Statement of Community Involvement.

### **Stage of the Proposal**

The scheme is at pre-application stage. Officers have been engaged in high level discussions with the applicant team for approximately 2 ½ years.

In December 2013 St Modwen entered into a development contract with Asda and began detailed pre application discussions with Lewisham Officers. Officers are still in the process of negotiating details of the proposals. The applicant intends to submit a planning application towards the end of the year.

Public engagement is an important part of the pre application process. St Modwen have been encouraged to engage with the local community since the outset. The most recent public exhibition was held on the weekend of 21st June 2014. Officers are satisfied with the community engagement to date and are pleased that more is proposed. When the planning application is submitted, the Council will undertake a statutory consultation exercise in order for members of the public to formally comment on the proposals.

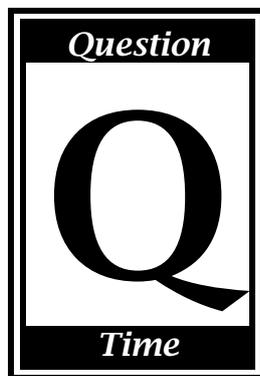
A number of questions that have been raised cannot be answered until a planning application has been received and is valid. The planning application will provide confirmation of all matters regarding the development through the submission of drawings and supporting statements. The statements relevant to the questions raised that will be submitted with the application are in the table below. The final list of documents will be confirmed once the application is submitted.

Design and Access Statement	The statement will set out the evolution of the final design and the design rationale for the proposals.
Planning Obligations Statement	This document will set out the contributions offered by the applicant in order to mitigate the impact of the development. It will respond to the Council's Supplementary Planning Document on Planning Obligations which includes reference to a wide range of infrastructure including health and education needs as a result of development.
Environmental Statement	This document will comprise a series of headings considering the Environmental Impact of the development during construction and occupation/use, including socio-economic matters.
Affordable Housing Statement	The statement will confirm the number of residential units and the dwelling and tenure mix for the scheme.
Air Quality Impact	This document will include details such as changes to traffic movement and the effect of the development on dust and pollution and proposed mitigation and monitoring measures. It will consider the consequent impact on air quality as a result of the development.
Construction and Environmental Management Plan	This document will consider any congestion, pollution and noise that might affect local residents and businesses and the environment generally during the construction process.
Daylight/Sunlight Assessment	This assessment will address any potential impact upon the current and proposed levels of sunlight/daylight to adjoining and proposed properties or buildings, including

	gardens and amenity space.
Economic/Regeneration Statement	This document will advise of regeneration benefits from the proposed development, including details of any new jobs that will be created or supported.
Parking Management Plan	This will confirm the parking strategy in and around the site.
Statement of Community Engagement	A statement will set out how the applicant has engaged with the public and has taken into account any representations received in the formulation of development proposals.
Transport Assessment	This will provide an assessment of the traffic that will be generated from the proposals as well as details of proposed measures to improve access by public transport, walking and cycling, to reduce the need for parking associated with the proposal, and to mitigate transport impacts. It will take in account road safety and will be subject to consultation with TfL.
Viability Assessment	The assessment will explain how a proposed level of affordable housing has been derived. This document will be confidential and will be independently assessed by Viability consultants appointed by the Council..
Retail Assessment	This will consider the existing retail provision and sets out how the proposed development will result in a viable and healthy balance between the existing (on adjacent parades) and the proposed retail provision within the District Centre.
Tall Building Assessment	This document will consider the impact of any taller buildings proposed when viewed from different vantage points in the vicinity and will assess the appropriateness of the proposed buildings.

Members of the public have enquired as to why the Leegate Shopping centre was not purchased at the same time as the Catford shopping centre. Questions have also been raised regarding why the Council does not use its Compulsory Purchase Order powers in order to buy Leegate from St. Modwen.

The Council rarely buys property of a large scale. The shopping centre including Milford Towers was purchased to assist in the comprehensive regeneration proposals for the Catford Town Centre. In the case of Leegate, Officers feel that negotiations with St. Modwen are moving in the right direction and are hopeful that a satisfactory outcome will be achieved.



**PUBLIC QUESTION NO. 7**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Martin Allen People before Profit

Member to reply: Deputy Mayor

**Question**

The PFI contract, which is funding the Skanska lights programme, is likely to lead Lewisham finances in to an even bigger black hole in the future and that the street lighting contract funded through a private finance initiative (PFI) will cost £95m over the next 25 years, due to the extraordinary rates of interest charged by the financing company. Is this correct? Surely no responsible local authority would enter in to such a contract?

Are the new lights compliant with the Neighbourhoods & Environment Act 2005?

How many complaints has Lewisham received about the excessive light entering their bedrooms and homes generally from the new lights?

Can you assist in clarifying whether and why the new lamp posts contain Wi-Fi and if so, to what use this might be put?

**Reply**

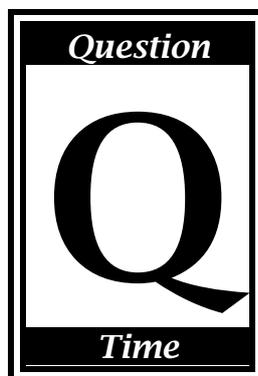
It is correct to say that over the 25 year period the Council will be paying £95m for the street lighting contract however this cost is mitigated by PFI government grant of £54m that would not have otherwise been awarded had the Council not gone down this route. Contracts are awarded in accordance with the Councils procurement rules which in themselves are designed to ensure that value for money is achieved. This means that contracts are awarded following an evaluation of tenders that take into account price and quality and the tender that offers the best value for money is chosen. The successful tenderer will take into account many factors including interest rates in arriving at their contract price.

The Neighbourhoods and Environment Act 2005 relates to artificial light emitted from premises, as such, street lighting is not covered by this act.

With regards to the number of complaints received, as the street lighting is designed in line with British Standard guidelines, lighting level enquiries are not categorised as

complaints on our system as personal opinions about the street lighting do not constitute a complaint as it is not a failure of service. We have around 30 enquiries regarding the lighting levels each month, however this is for both low lighting levels and high lighting levels.

The new columns do contain Wi-Fi. This means it is possible to detect faults quicker due to the in built Wi-Fi that communicates directly to a central controller allowing us to maintain the street lighting much more efficiently. The new street lighting is controlled by a central computer system which remotely monitors the lighting for faults. This allows faults to be reported far quicker than the old method of night scouting. The lighting can also be controlled remotely via this computer system.



**PUBLIC QUESTION NO. 8**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Marietta Stankova

Member to reply: Deputy Mayor

**Question**

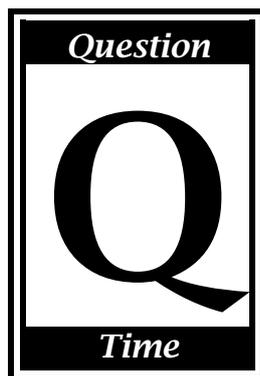
Given that:

- (i) the Leegate centre is in an Air Quality Management Area and the scientifically collected and analysed data shows steady increase of the average annual levels of NO<sub>2</sub> at the diffusion tube site in Lee High Road (in 2011 - it was 36µg/m<sup>3</sup>, in 2012 - 39µg/m<sup>3</sup> and in 2013 - 43µg/m<sup>3</sup>);
- (ii) after applying the local adjustment factor the Lee High Road location is among the 12 diffusion tube locations which recorded annual mean NO<sub>2</sub> concentrations exceeding the annual mean NO<sub>2</sub> objective of 40 µg/m<sup>3</sup>, while after applying the national bias adjustment factor the Lee High Road location is among the 14 sites exceeding the annual mean NO<sub>2</sub> objective;
- (iii) recent citizen science results show the Lee High Road (near the corner with Brightfield street) to exceed the legal NO<sub>2</sub> limits by as much as 66%.

how concerned is the cabinet member with a redevelopment scheme for the Leegate centre which from its publicly-available pre-application documents makes it clear that it will bring more people to live in a spot of increasing traffic and deteriorating air quality at the same time as it will by the nature of its retail proposition encourage more people to drive to the same area. Would the approval of such a scheme contravene the legal and moral obligations of the Council to improve the air quality of its area and consequently, the quality of life of its existing and new residents?

**Reply**

Please see the answer to Public Question No. 6.



PUBLIC QUESTION NO. 9

Priority 1

LONDON BOROUGH OF LEWISHAM

## **COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Richardson

Member to reply: Deputy Mayor

### **Question**

Although it was noticed that within the scope of the new lighting contract with Skanska, even in 2013, some residents were benefitting from much 'classier' lamp posts, which are also much less high than the "common" versions installed in many streets, including Manor Lane Terrace.

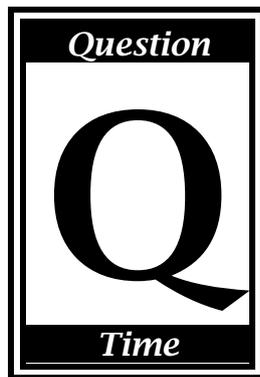
We have now noted that Quentin Road, Blackheath, S.E.3 has these, what might be termed "carriage lamps." Why? How is it determined that some streets are considered to have less intrusive lighting, more attractive lighting? Why is it that so many of us are being penalised by having more lamp posts, which cast intrusive lighting into the interiors of houses as they are too tall, too bright and too many? What were the Council's terms of reference given to Skanska that led to such discriminatory decisions?

### **Reply**

The Authority's conservation team in Lewisham submitted a list of street lighting conservation area streets to Skanska as part of the PFI Contract. These streets will have enhanced equipment installed from an agreed palette of materials.

Any roads that are not included in this agreed list will have standard black columns installed as per the contract.

Quentin Road is on the list of street lighting conservation roads hence why this has enhanced equipment installed.



**PUBLIC QUESTION NO. 10**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

## **17 SEPTEMBER 2014**

Question asked by: Mr Maxton

Member to reply: Cllr De Ryk

### **Question**

With respect to the Strategic Planning Committee, will the Council state:

- a) How many meetings of it were time-tabled and then cancelled from May 2010 to April 2014 (the last Council term);
- b) How many times it actually met during the last Council term (not including formalised meetings that were part of a larger meeting);
- c) The training, site visits and Design Review meetings that members of the new Committee, established in June, have attended;
- d) If the massively reduced functioning of this public committee has attracted the attention of the Overview and Scrutiny Committee or the Constitution Working Party with a view to de-timetabling it or winding it up.
- e) How can the £500 monthly allowance paid to its Chair, with its expectation of chairing regular, publicly accessible meetings, arriving at important decisions and overseeing an important department, rather than just being individually busy, be justified?

### **Reply**

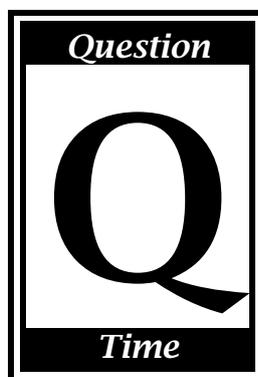
The Council's Strategic Planning Committee (SPC) performs an important function considering the Borough's most complex and significant planning applications. Meetings of the SPC are timetabled to take place once a month to ensure the availability of Members and rooms but they only take place when there is a strategic scheme to consider and records show that the SPC met 17 times in the last Council term. I was newly elected to this post in June 2014 and as Chair it is my intention to use the scheduled meetings to provide Members with updates and briefings on schemes which are in development.

Following the confirmation of membership of the planning committees, training was arranged for all Members. However, as most of the Members of Strategic Planning have experience as chairs of the other planning committees, this training has been offered to refresh Members' existing knowledge. To date, no Members of the new SPC have attended a design review panel meeting which are held once a month, and as Chair of Strategic Planning I aim to attend these meetings regularly. Site visits are usually arranged if required in advance of considering a scheme as part of

the planning process, although as yet, no site visits have been required for the new SPC.

There have been no recent reviews of the operation of the Strategic Planning Committee by the Overview and Scrutiny Committee or the Constitution Working Party

Member Allowances have recently been independently reviewed by Sir Rodney Brooke CBE who states inter alia "The Chair of the Strategic Planning Committee is currently allocated an SRA at the same level as the Chairs of the Planning and Licensing Committees. While I recognise the substantial workload of these chairs, I believe that the responsibilities of the Chair of the Strategic Planning Committee justify a higher level of allowance, midway between that paid to the chairs of the Planning Committees and the Chair of the Overview and Scrutiny Committee".



**PUBLIC QUESTION NO. 11**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Julie Pannell-Rae

Member to reply: Deputy Mayor

### **Question**

#### **The development of the Leegate site:**

The 2014 Silvertunnel Pollution study shows that Lee Green junction has pollution levels 66% higher than EU legal limits (Readings above 40 µg/m<sup>3</sup> are in breach of EU air quality regulations).

Lewisham Council has designated Lee High Road including Lee Green Junction as an 'Air Quality Management Area' since nitrogen dioxide and particulate levels exceeded the council's objective levels.

National Government Planning Framework: Page 9 states 'encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion'.

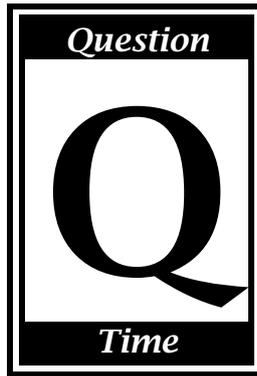
London Plan: 6.38 writes 'The Mayor wishes to see DPDs and Local Implementation Plans (LIPs) take a coordinated approach to tackling congestion ...by promoting local services that reduce the need to travel'

Does the Mayor agree that any developments in Lee Green District Centre should not increase and should preferably decrease pollution and congestion?

### **Reply**

Please see the answer to Public Question No. 6.





**PUBLIC QUESTION NO. 12**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Helen Mercer

Member to reply: Deputy Mayor

**Question**

How much Section106 money was awarded finally for the following developments in Central Lewisham, and what has the money been spent on, or what has it been earmarked for?

Loampit Vale – Planning application no. DC/08/69895/X

Thurston Road - Planning application no. DC/10/76005

Lewisham Gateway – Outline planning application no. DC/06/62375 and DC/06/62375B

Lewisham Gateway Detailed planning application for Block A DC13/83493/X

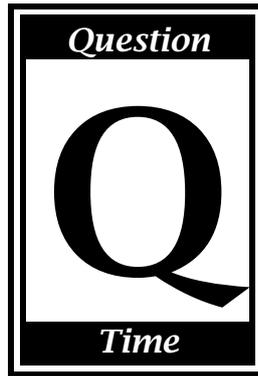
## **Reply**

The following tables detail the financial contributions secured by the Council from the Renaissance scheme at Loampit Vale, Thurston Road Industrial Estate and Lewisham Gateway.

As the Lewisham Gateway application for Block A (DC13/83493/X) was for Reserved Matters, it is covered by the outline planning permission (DC/06/62375) and as such does not have a separate Section 106 Agreement.

Please note, all financial contributions are subject to indexation and therefore the table shows the amounts received which may be higher than those originally secured.





**PUBLIC QUESTION NO. 13**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Natalie Doucy

Member to reply: Deputy Mayor

**Question**

Given that there are currently around 15 independent retailers in the Leegate Centre, can the Mayor assure residents that current niche offer will not be reduced?

Looking at the success of the Westfield shopping malls in Stratford and in the US, one can see the success of the open-air malls while more and more old-fashioned huge malls are going bankrupt (look at what happened in Detroit). Why change the Leegate design? Do you agree that this just needs to be refurbished and requires a variety of shops (attracting firms like Costa, small Waitrose and Hobby Craft). Leegate has insufficient space to provide for both another supermarket –sized competitive convenience shopping provision and more choice and diversity in the form of comparison and A3/4/5 shops.

Does the Mayor agree that any developments in Lee Green District Centre should not increase and should preferably decrease pollution and congestion?

Spacial Policy 3 for Lee Green states that plans should 'Improve Civic Space'. "The strategy seeks to create a permeable, memorable and sustainable place'. Does the

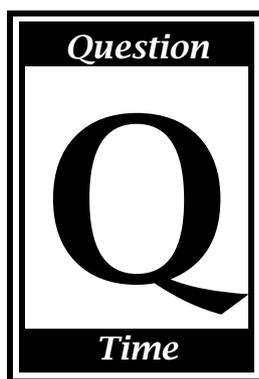
mayor agree that the size and quality of the existing civic space in the Leegate Centre must be protected?

How will you deal with traffic congestion and car parks, and what about road safety with three schools in the immediate vicinity?

There are non-acceptable inconsistencies in the public consultation which referred to 7 to 8 small retail units and 250 residential ones and the Screening and Scoping request which quotes 6 and 300 respectively. Will this be re-submitted with a necessary clarification on those points?

### **Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 14**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Atanas Christev

Member to reply: Deputy Mayor

**Question**

The London Plan and the Councils' Retail Capacity Study, suggest councils increase their use of Compulsory Purchase Powers to purchase property on the grounds that it is mostly empty as per The Planning and Compulsory Purchase Act May 2004.

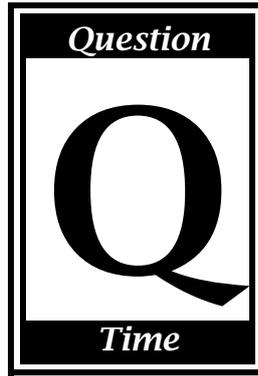
The National Planning Framework also states that CPOs can be used to ensure that 'needs for retail, leisure, office and other main town centre uses are met in full'.

Lewisham's Site Allocations Local Plan at 2.3 states: 'Where comprehensive redevelopment of an area is indicated, the Council may choose to use its compulsory purchase powers'.

Does the Mayor believe that if the current owners of the (mostly empty) Leegate Centre, which sits at the heart of Lee Green district centre, are unwilling to provide a solution in line with Lewisham's own planning policies, then the Council could use its Compulsory Purchase Order powers to purchase the site for itself or on behalf of a third party. Who would provide the funds, to achieve a satisfactory outcome for Lee Green?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 15**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Emma Warren

Member to reply: Deputy Mayor

**Question**

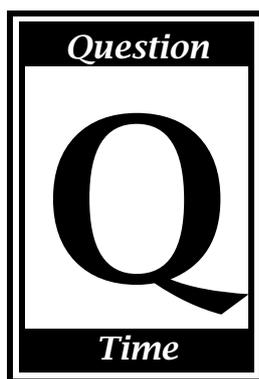
St Modwen's proposals for the Leegate centre.

Spatial Policy 3 for Lee Green states that plans should 'Improve Civic Space'. Spatial Strategy 3 C states that: 'Connectivity improvements to and throughout each district centre will be prioritised where development opportunities arise and where the Council can play a lead role. The emphasis within the District town centres will be to protect the existing open spaces from development and to promote environmental improvements which enhance the role of the centre and its attractiveness for those who shop there and use other services. The strategy seeks to create a permeable, memorable and sustainable place'

Does the Mayor agree that the size and quality of the existing civic space in the Leegate Centre must be protected?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 16**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

Lewisham Council commissioned a Retail Capacity Study in 2009 and its findings, in line with National Planning and London Plan requirements for an evidence based approach, were included in Lewisham's Core and Spatial Strategies: In regards to Lee Green District Centre it was found that development should:

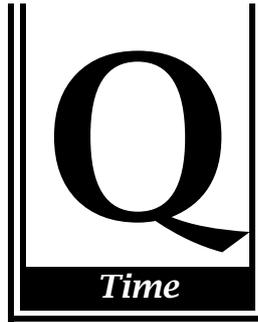
'facilitate a more intensive mixed use development on the shopping centre site to strengthen its role and function, in particular strengthen the A3/4/5 role to provide a niche offer'

Given that there are currently 20 independent retailers in the Leegate Centre, can the Mayor assure residents that the Leegate Centres niche offer will not be reduced through future redevelopment?

**Reply**

Please see the answer to Public Question No. 6.

**Question**



**PUBLIC QUESTION NO. 17**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Kate Quarry

Member to reply: Deputy Mayor

**Question**

Proposed development at Leegate.

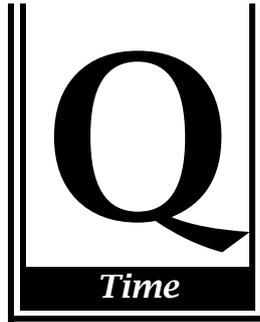
Do you share my concerns about the size of the Asda that is planned? At the moment the Lee Green junction is already quite slow at busy periods. Even during quiet periods, it's very slow for people wanting to turn right. Presumably Asda is hoping to attract several thousand shoppers a day, most of whom will drive. This is going to make the queues at the junction extremely long, and large numbers of drivers will use nearby roads as rat runs.

I understand that Lewisham Council has designated Lee High Road, including Lee Green junction, as an 'Air Quality Management Area' because it already has pollution levels 66% higher than EU legal limits. Does the Mayor agree that it would be better to rethink the plans and have a smaller supermarket at the site, which would leave space for more small shops and cafes, to encourage locals to shop on foot there and others to travel by bus to shop there. This would then make a reduction in vehicle emissions more attainable.

**Reply**

Please see the answer to Public Question No. 6.

**Question**



**PUBLIC QUESTION NO. 18**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Bull

Member to reply: Deputy Mayor

**Question**

The 2014 Silvertunnel Pollution study shows that Lee Green junction has pollution levels 66% higher than EU legal limits (Readings above 40 µg/m<sup>3</sup> are in breach of EU air quality regulations).

Lewisham Council has designated Lee High Road including Lee Green Junction as an 'Air Quality Management Area' since nitrogen dioxide and particulate levels exceeded the council's objective levels.

National Government Planning Framework: Page 9 states 'encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion'

London Plan: 6.38 writes 'The Mayor wishes to see DPDs and Local Implementation Plans (LIPs) take a coordinated approach to tackling congestion ...by promoting local services that reduce the need to travel'

Does the Mayor agree that any developments in Lee Green District Centre should not increase and should preferably decrease pollution and congestion?

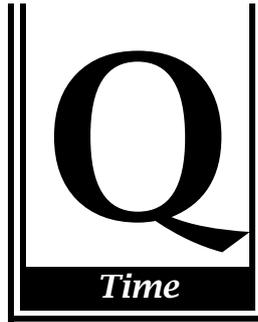
Spatial Policy 3 for Lee Green states that plans should 'Improve Civic Space'. Spatial Strategy 3 C also states that: 'Connectivity improvements to and throughout each

district centre will be prioritised where development opportunities arise and where the Council can play a lead role. The emphasis within the District town centres will be to protect the existing open spaces from development and to promote environmental improvements which enhance the role of the centre and its attractiveness for those who shop there and use other services. The strategy seeks to create a permeable, memorable and sustainable place' Does the Mayor agree that the size and quality of the existing civic space in the Leegate Centre must be protected? And can he further explain how the current proposed development under St Modwen conforms to this agreed Civic Space strategy?

**Reply**

Please see the answer to Public Question No. 6.

***Question***



**PUBLIC QUESTION NO. 19**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: James Stanbury

Member to reply: Deputy Mayor

**Question**

Proposals for Leegate Centre

Would plans for a large supermarket be able to ensure that smaller independent businesses would be able to have a role there?

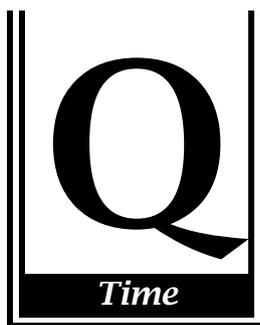
As pollution and congestion are already a problem in Lee Green would a new large supermarket, which people would be driving to, increase the pollution and traffic problems in the area?

We do not need another larger supermarket, we already have competitive supermarket shopping in the area; Lidl on Lee High Road and Tesco in Lewisham. Should other opportunities be considered when redeveloping Leegate to provide amenities that the area does not already have and would be well used by local residents; for example a large soft play area for the young families in the area, something that people could walk to?

**Reply**

Please see the answer to Public Question No. 6.

***Question***



**PUBLIC QUESTION NO. 20**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: S Chishtie

Member to reply: Deputy Mayor

**Question**

Proposals for Leegate Centre

1. Why are the existing shops not being retained. Do the plans ensure the existing local businesses that people in the area use remain?
2. Are you aware there is a local market that is held on Wednesday and Saturday - this is part of our community and should not be lost in the regeneration and they should not have to pay more to remain there?
3. Do you agree an Asda is neither needed nor wanted by the local community? I understand that you need someone to fund the regeneration but do you agree that this is not the best way to go about it and does not take the community views into account? Can you take a look at Blackheath and the Brunswick centre for what Lee should be like and represent?
4. Do you agree the major issue with the existing Leegate centre is the pub and the type of people this attracts. The proposal is not addressing this fundamental issue. The pub, despite lease agreements should not remain if you want to improve the area and increase the safety?

5. Why do we need an incredibly large number of new homes? Do you find it astonishing that the plans are even allowed to include 200 plus new homes on top of the Asda. The height of the proposal is absolutely ridiculous and the number of new flats and people this will attract is not necessary and completely unjustified when you are aiming to improve the area.

6. Are you aware the proposal will increase the traffic at the junction - this is already terrible as it is? With the changes, this will be even worse. The proposal does not address this at all.

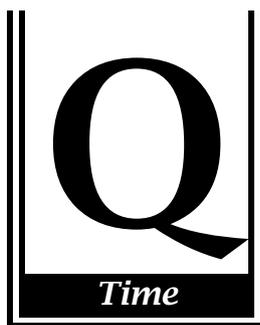
7. Are you aware that as a result of the ridiculous number of proposed homes, there will be a massive increase in the number of cars on Leyland Road and surrounding roads? We barely have enough spaces as it is - this will only make it worse unless you significantly reduce the number of flats and provide a space for each one and ban them from parking on roads. We should not have a CPZ enforced to fix this as we will be out of pocket for a proposal that we don't even agree to.

8. Are you aware that the number of commuters travelling from nearby stations (Lewisham, Lee and Blackheath) as well as on the buses is already over capacity and in actual fact, unbearable? Building such a large number of homes will make this beyond control. Nowhere in the proposal is there mention of working with TfL to increase the number/size of trains and the number of buses - this is the only way to address this unless you significantly reduce the number of proposed homes to a more realistic number, e.g. 50.

### **Reply**

Please see the answer to Public Question No. 6.

**Question**



**PUBLIC QUESTION NO. 21**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Glynis Tomes

Member to reply: Deputy Mayor

**Question**

The 2014 Silvertunnel Pollution study shows that Lee Green junction has pollution levels 66% higher than EU legal limits (Readings above 40 µg/m<sup>3</sup> are in breach of EU air quality regulations).

Lewisham Council has designated Lee High Road including Lee Green Junction as an 'Air Quality Management Area' since nitrogen dioxide and particulate levels exceeded the council's objective levels.

National Government Planning Framework: Page 9 states 'encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion'

London Plan: 6.38 writes 'The Mayor wishes to see DPDs and Local Implementation Plans (LIPs) take a coordinated approach to tackling congestion ...by promoting local services that reduce the need to travel'

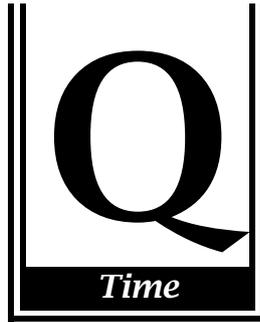
Does the Mayor agree that any developments in Lee Green District Centre should not increase and should preferably decrease pollution and congestion?

Does the Mayor consider the proposed development at Leegate will help to improve the image of “the worst shopping centre in the country” and does he consider that an Asda Store will enhance the area already blighted by the 3 murders in 3 years?

**Reply**

Please see the answer to Public Question No. 6.

***Question***



**PUBLIC QUESTION NO. 22**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: E. Kettlewell

Member to reply: Deputy Mayor

**Question**

Proposed Lee Green Development

Pollution study shows that Lee Green junction has pollution levels 66% higher than EU legal limits (Readings above 40 µg/m<sup>3</sup> are in breach of EU air quality regulations).

Lewisham Council has designated Lee High Road including LeeGreen Junction as an 'Air Quality Management Area' since nitrogen dioxide and particulate levels exceeded the council's objective levels.

National Government Planning Framework: Page 9 states 'encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion'

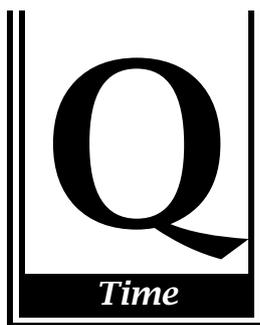
London Plan: 6.38 writes 'The Mayor wishes to see DPDs and Local Implementation Plans (LIPs) take a coordinated approach to tackling congestion ...by promoting local services that reduce the need to travel'

Does the Mayor agree that any developments in Lee Green District Centre should not increase and should preferably decrease pollution and congestion?

**Reply**

Please see the answer to Public Question No. 6.

***Question***



**PUBLIC QUESTION NO. 23**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Diana Stevenson

Member to reply: Deputy Mayor

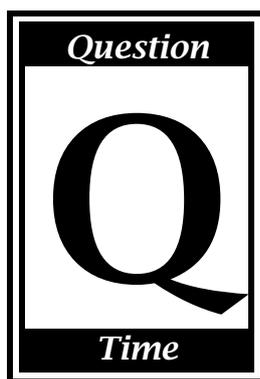
**Question**

Is the Mayor aware that the plans for the new Asda superstore on the Leegate Centre site propose a single point of entry and exit for both delivery lorries and customers' vehicles on Burnt Ash Road, in a residential area where children live? Has the Council considered the increase in noise, pollution, congestion and safety levels that this will cause? Immediately opposite the proposed entry/exit site for lorries and customer cars is a block of 6 flats in which live 4 young children, one of whom is autistic. Has the Council considered the detrimental effect on the health of children and adults living in the immediate vicinity of this proposed entry and exit point for the Asda site? The 2014 Silvertown Pollution Study shows that the Lee Green junction already has pollution levels 66% higher than the EU legal limits, and Lewisham Council has designated Lee High Road including the Lee Green junction as an Air Quality Management Area since nitrogen dioxide and particulate levels exceed the Council's objective levels. The National Government Planning Framework, Page 9, states "Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion." In what way does this proposed Superstore requiring a huge new lorry delivery and customer vehicle entrance fulfil these official national and local planning objectives?

Is the mayor aware that bus stops on both sides of Burnt Ash Road at the proposed entry and exit point for the Asda superstore are full of school children before and after school, who frequently fill the pavements? Has the Council carried out an observational assessment of the proposed location of the entry/exit site and its surroundings, to assess the suitability of the site in terms of safety and congestion? Is the Council aware that the once-daily Iceland lorries who deliver to this point on Burnt Ash Road at present sometimes have difficulty getting in and out, and block the traffic in Burnt Ash Road? I cannot believe that any traffic and safety survey would find this site suitable for an entry/exit point for a large superstore. The size of the proposed new store is far too large for this already congested, polluted and unsafe spot. Has the Council considered whether approval of this proposed development in its present form would leave the Council in breach of its own regulations and duty of care to the local community?

### **Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 24**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Damian Griffiths

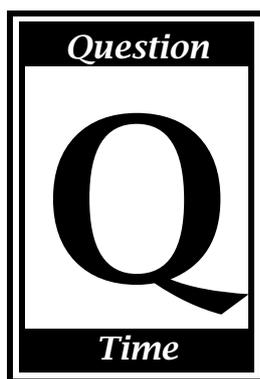
Member to reply: Councillor Egan

**Question**

I would like to enquire whether any Lewisham councillors will be attending the MIPIM housing fair at Kensington Olympia on 15th-17th October this year? I am concerned about the potential sale of public land that could occur as a result of deals that are made at an event like this.

**Reply**

I am not aware of any Lewisham Councillors attending MIPIM.



**PUBLIC QUESTION NO. 25**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Nisbet

Member to reply: Deputy Mayor

**Question**

With reference to Government policy and site-specific local development plan policy which, though not yet adopted, is the most recent and has already been consulted on: The Leegate is a settlement where development proposals should be considered very carefully: overexpansion in capacity could ruin the social character of the area while estate development would overwhelm it, what should be questioned in particular is;

1. Lewisham's Development Management Local Plan 2.12 states that 'Planning policies should promote competitive town centres that provide customer choice and a diverse retail offer.'

The councils 2009 Retail Capacity Study, upon which its Spatial Strategy for Lee Green is based, states that there is a 'shortage of comparison, A3/4/5 provision' and that 'convenience shopping is well served'. As the 8th smallest of Lewisham's 9 District Centres, Leegate has insufficient space to provide for both another supermarket -sized competitive convenience shopping provision and more choice and diversity in the form of comparison and A3/4/5 shops.

Does the mayor consider it more important to provide competition for convenience shopping (which is 'well served' and already has competition in Lidl in Eltham and Lee High Road and Tesco in Lewisham) or an increase in A3/4/5 shopping, as the council is obliged to do, per its Spatial Strategy, since there is not space for both?

Furthermore, the only identified the priority for space is the need is for affordable housing for residents who work locally,. As an alternative to this proposal, we would support the the reduced sizing of retail capacity for the increase in construction of houses built on if it was ensured that these were affordable homes for local people.

2. The 2014 Silvertunnel Pollution study shows that Lee Green junction has pollution levels 66% higher than EU legal limits (Readings above 40 µg/m<sup>3</sup> are in breach of EU air quality regulations).

Lewisham Council has designated Lee High Road including Lee Green Junction as an 'Air Quality Management Area' since nitrogen dioxide and particulate levels exceeded the council's objective levels.

National Government Planning Framework: Page 9 states 'encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion' London Plan: 6.38 writes 'The Mayor wishes to see DPDs and Local Implementation Plans (LIPs) take a coordinated approach to tackling congestion .by promoting local services that reduce the need to travel' Does the mayor agree that any developments in Lee Green District Centre should **not** increase and should preferably decrease pollution and congestion?

3. The London Plan and the Councils Retail Capacity Study suggest councils increase their use of Compulsory Purchase Powers to purchase property on the grounds that it is mostly empty as per The Planning and Compulsory Purchase Act May 2004. The National Planning Framework also states that 'CPOs can be used to ensure that 'needs for retail, leisure, office and other main town centre uses are met in full'. Lewisham's Site Allocations Local Plan at 2.3 states: Where comprehensive redevelopment of an area is indicated, the Council may choose to use its compulsory purchase powers' Does the Mayor believe that if the current owners of the (mostly empty) Leegate Centre, which sits at the heart of Lee Green district centre, are unwilling to provide a solution in line with Lewisham's own planning policies, then the council could use its Compulsory Purchase Order powers to purchase the site for itself or on behalf of a third party who would provide the funds, to achieve a satisfactory outcome for Lee Green?

4. Many residential streets in the Lee Green area experience heavy traffic during rush hour and the school run, exacerbated by rat-running because of congested main roads.

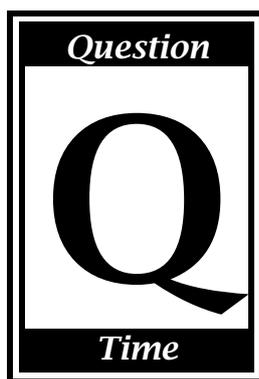
As traffic-calming measures and CPZs have not alleviated the problem, could the mayor and council reveal if they have given attention to this problem , if they have considered any steps to deal with it and how they plan to address it in future? Could they confirm commitment to the reduction of traffic congestion and rat-running in residential streets and thus improving road safety including with regards to major developments such as the Leegate regeneration scheme - which will by admission of

its developers will increase significantly out-of-ward and out-of-borough incoming traffic to Lee Green St Modwnes admitted site increased traffic as a negative effect of their plans in their scoping request to Lewisham Council.

What are the responsibilities of the local planning authority to ensure that landlords and developers carry out timely, meaningful and proper consultation with regard to their planning proposals? Are the Mayor and cabinet aware that the statutory public consultation for the Leegate regeneration scheme was limited (in time - as it amounted to no more than a full working day, in area - as key affected roads and residents were not notified, in content - due to the formulation of the available responses on the questionnaire, through the fact that the deadline for responses was not clearly advertised until shortly before it expired and consequently, are they satisfied that the consultation has been conducted adequately?

### **Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 26**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Caroline Bray

Member to reply: Deputy Mayor

**Question**

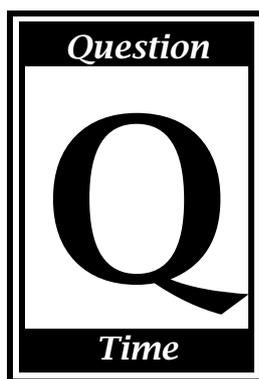
Proposed Development at Leegate

1. Will the people who currently live in the redevelopment area be offered accommodation in the new development at prices they can afford?
2. How many of the employees of the proposed Asda be able to afford to live on the site?

With housing prices rising far beyond the reach of many people in poorly paid jobs I would hope that Lewisham Council will treat the needs if people already living and working in Lee as a priority if the redevelopment is to go ahead.

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 27**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Julie Williams

Member to reply: Deputy Mayor

**Question**

1). What are the responsibilities of the local planning authority to ensure that developers carry out timely, meaningful and proper consultation with regard to their planning proposals?

Are the Mayor and Cabinet aware that the statutory public consultation for the Leegate regeneration scheme was limited? The consultation amounted to no more than a full working day. It would seem that key affected roads and their residents were not notified of the public consultation. Many of the roads adjacent to Leegate did not receive an invitation including Leyland Road where I live, however, many houses in roads further afield were door dropped. Is this a fair consultation if many of the residents that will be most affected by this development were not actually informed of this event and can you ask St Modwen to explain this?

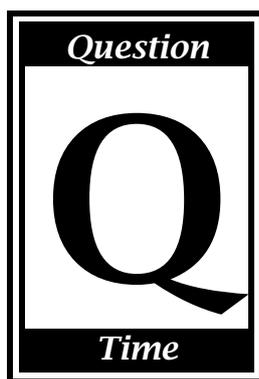
I was also not entirely happy with the way the event itself was promoted on the days it was running. Very small handwritten signs were on display and I think the majority of people walking through Leegate would not have been aware. Lastly I felt the questionnaire on the website should have stated the deadline for responses. This was not added on until shortly before it expired. I would like to know if the Mayor and the councillors are completely satisfied that this consultation had been conducted adequately?

2). Do the mayor and councillors believe that in development consultations it is important to inform the affected local community of specific and firm proposals in order to allow for adequate and informed response by interested parties. How would they comment on the proposals for the Leegate centre where in the scope of just over a month, there is significant difference between the information available: the public consultation referred to 7 to 8 small retail units and 250 residential ones while the Screening and Scoping request quotes 6 and 300 respectively?

3). I am very interested in hearing the outcome of the public consultation for the regeneration of the Leegate centre. How can the Mayor and councillors help local residents and users find out what the cumulative public response has been, since to date St Modwen have not publicised any results?

### **Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 28**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Bilal Khan

Member to reply: Deputy Mayor

**Question**

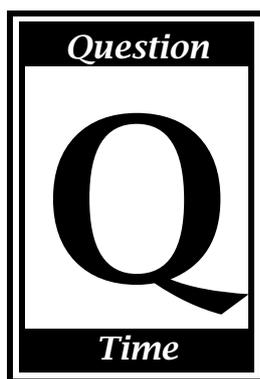
Lewisham Council commissioned a Retail Capacity Study in 2009 and its findings, in line with National Planning and London Plan requirements for an evidence based approach were included in Lewisham's Core and Spatial strategies. In regards to Lee Green District Centre it was found that development should:

'facilitate a more intensive mixed use development on the shopping centre site to strengthen its role and function, in particular strengthen the A3/4/5 role to provide a niche offer'

Given that there are currently around 15 independent retailers in the Leegate Centre, can the Mayor assure residents that current niche offer will not be reduced?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 29**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Clare Griffiths

Member to reply: Deputy Mayor

**Question**

1. What is happening to the Catford town centre plan and how does this plan relate to TfL's inner ring road plans or plans to put the south circular in a tunnel?
2. Is Lewisham council aware of the air pollution studies by No to Silvertown Tunnel and Don't Dump on Deptford's Heart (<http://www.silvertowntunnel.co.uk/our-study/2014-silvertown-tunnel-pollution-study-results/>), in particular the high levels of air pollution in Lewisham town centre and New Cross? In the light of this does LBL have plans to expand its own pollution monitoring?
3. Has Lewisham council responded to the new TfL consultation on East London river crossings? Will the council publish its response?
4. Will the council publish its plans for the implementation of 20mph roads across the borough, as promised in the Labour manifesto, including a likely timetable for implementation?

## Reply

1. Following publication of the independent 'Roads Task Force' report in July 2013, the Mayor of London requested that Transport for London (TfL) and the London boroughs look again at long established road improvement proposals and how they might be implemented. This included the long established proposals to improve the A205 South Circular road in Catford Town Centre by relocating the A205 road behind Laurence House.

The Catford Town Centre Local Plan (CTCLP) had taken the view that these proposals were unlikely to be implemented and set out a new policy that committed the Council to abandon the TfL proposal to realign the South Circular to the rear of Laurence House. As a result of the Mayor of London's request it was concluded that there was merit in re-examining the original TfL A205 road improvement proposals and TfL agreed to undertake a study to investigate. If, as a result of the study, TfL continued to support their original proposals or some other third way then significant modification of the CTCLP would be required. As the report was not expected until summer 2014 and then would need discussion and consideration, the Council concluded that the best option would be to withdraw the CTCLP from Examination.

An initial concept report has recently been received in draft from TfL which outlines the proposal. Lewisham Officers are currently reviewing the report and raising a number of queries and are seeking a meeting with TfL to receive further information to assist full consideration. The proposal focuses on Catford rather than the wider south circular, and the Council is not aware of any current work into the idea of running the south circular in a tunnel.

2. The Environmental Protection Team is aware of the Don't Dump on Deptford's Heart campaign. Lewisham currently completes real time air quality monitoring at 4 locations in the Borough with monitoring stations at both New Cross and Lewisham, this data is ratified by King's College London and available to view at <http://www.londonair.org.uk/>. This is also complemented by a network of diffusion tubes for nitrogen dioxide at 32 locations in the Borough. Results from diffusion tubes are available from the air quality web pages at <http://www.lewisham.gov.uk/myservices/environment/air-pollution/Pages/air-quality-monitoring.aspx>

In addition, when there is significant development in the Borough, the environmental protection team liaises with the planning team and applicants to agree air quality monitoring regimes to control the impacts of construction such as for the Thames Tideway Tunnel project. This is supported by newly updated guidance produced by the Environmental Protection team on the Control of pollution and noise from demolition and construction sites. The team also ensures that appropriate mitigation is in place on development, utilising guidance such as GLA emission standards to prevent deterioration and work to improve air quality in the Borough.

3. The Council is submitting a response to the new TfL consultation on new river crossings in east London. The Council does not tend to publish its responses to the numerous TfL consultations. Such response are however a matter for public record

and we are happy to share them with interested parties. Here is the Council's response to the previous consultation on the proposed River Crossings at Silvertown and Gallions Reach:

*LB Lewisham supports the principle of increasing capacity across the river to unlock economic potential in the southeast region of London.*

*However the Council has concerns about the proposed locations of the crossings which are concentrated into a fairly small area, mostly serving Greenwich and the Enterprise Zone at the Royal Docks. This concentration will exacerbate, rather than disperse the current congestion pressures.*

*In particular the Silvertown Tunnel relies on the same southern approaches as the Blackwall Tunnel. These routes, including the A2 area and the South Circular, already suffer from daily congestion. As the only primary alternative to the Dartford crossings, these routes come under extreme pressure when the M25 is not operating smoothly. The Council therefore has reservations about the impact of an additional 6000 vehicles per hour on these routes.*

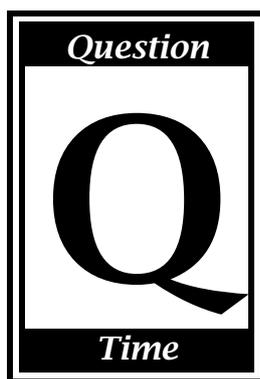
*LB Lewisham therefore requests details of the modelling underpinning the proposals, the predicted additional flows on roads affecting the Lewisham area, and any mitigating measures that would be proposed as part of the project.*

*LB Lewisham urges greater consideration of a major heavy goods crossing further to the east. Such a crossing would relieve, rather than exacerbate congestion on the existing approaches to the Blackwall Tunnel. This would also increase resilience to events at the Dartford crossings by greater dispersal on key routes across south east London.*

*A greater spread of alternative routes across the river would have a corresponding effect of a greater dispersal of economic benefits, whilst still supporting the important regeneration sites in east London.*

*Finally, regarding the proposed new ferry crossing at Gallions Reach, LB Lewisham is concerned about the potential loss of the free crossing. The Council would have reservations about replacing it with a charged service, or replacing it with a service in too close proximity to the Blackwall and Silvertown crossing points.*

4. A detailed project plan and timetable for the implementation of a borough wide 20mph zone is being developed and will be presented to Mayor & Cabinet in November 2014.



**PUBLIC QUESTION NO. 30**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mark Nightingale

Member to reply: Deputy Mayor

**Question**

Would the Mayor and Council consider it important that schemes such as the proposed Leegate Centre should be based on up-to-date retail and consumer research and independent analysis of the needs and concerns of the local community rather than only the assertions of the developer and interested big business? So far residents have been given the choice between a superstore (2012 proposals) and a superstore with housing (2014). Since the store proposal has been supported by no firm quantitative evidence, my experience suggests that the majority of neighbours and users of the Leegate centre oppose it on a number of grounds, including lack of necessity, massing and lack of permeability and negative environmental consequences. Would the Mayor be willing to facilitate more representative and meaningful investigation into a compromise which will satisfy different stakeholders?

The 2014 Silvertunnel Pollution study shows that Lee Green junction has pollution levels 66% higher than EU legal limits (Readings above 40 µg/m<sup>3</sup> are in breach of EU air quality regulations).

Lewisham Council has designated Lee High Road including Lee Green Junction as an 'Air Quality Management Area' since nitrogen dioxide and particulate levels exceeded the council's objective levels.

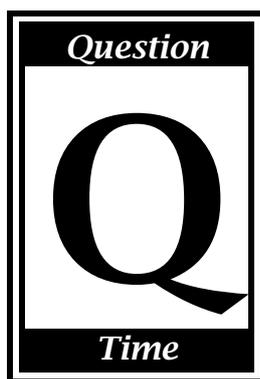
National Government Planning Framework: Page 9 states 'encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion'

London Plan: 6.38 writes 'The Mayor wishes to see DPDs and Local Implementation Plans (LIPs) take a coordinated approach to tackling congestion .by promoting local services that reduce the need to travel'

Does the mayor agree that any developments in Lee Green District Centre should not increase and should preferably decrease pollution and congestion?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 31**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Brian Haines

Member to reply: Deputy Mayor

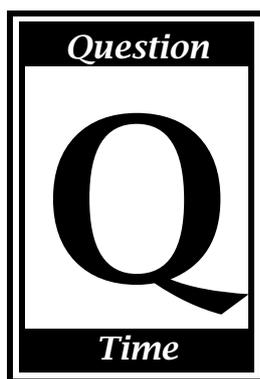
**Question**

Will the Council use the full range of its formal powers and informal persuasion to ensure that the freeholders and leaseholders of the Catford Bridge Tavern restore the property to its use as a pub without further delay?"

**Reply**

The Council has already used its planning powers to put in place policy to protect viable local pubs. This is set out in the Development Management local plan. Government legislation on 'permitted development' means that a pub use can change to other town centre uses such as a shop, a bank, or a restaurant without the need to obtain planning permission. These details are set out in the Town and Country Planning (Use Classes) Order 1987 (as amended) and The Town and Country Planning (General Permitted Development) Order 1995 (as amended). The Council has a planning power known as an 'Article 4 Direction' that it can put in place with the Secretary of State's agreement to remove the permitted development right. In the case of the Catford Bridge Tavern the Council has already placed an Article 4 Direction on the property so the owners cannot change the use to a shop or other use without first applying to the Council and obtaining planning permission.

In terms of informal persuasion the planning service encourages owners and developers to engage in pre application discussion on any proposals. To a large extent this relies on the owner or developer making contact but if the Council is advised of any proposal it will initiate its own contact. The Planning Service is preparing a questionnaire on community uses within pubs in Lewisham and as part of this work it proposes to contact the owners of the Catford Bridge Tavern to enquire about the latest situation and encourage the reuse as a pub.



**PUBLIC QUESTION NO. 32**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Thom Townsend

Member to reply: Councillor Bonavia

**Question**

Lewisham was the last London borough to return results at the recent local elections and it took a number of days to get the full ward by ward breakdown. When it did arrive, it was in a non-searchable/non-editable PDF format. Does the Council think any improvements need to be made to the way the borough manages the return of election results and their dissemination?

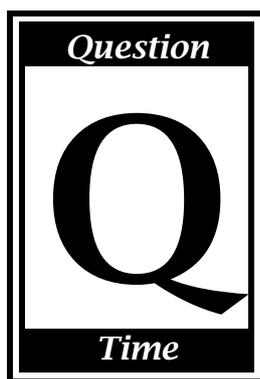
**Reply**

Lewisham was not the last London borough to return results, doing so in the course of Saturday 24 May and the early hours of Sunday 25 May 2014. The local results were posted on the Council's website very shortly after the declarations were made.

Unlike most London boroughs, Lewisham had two local elections to conduct. It first had to count the votes cast in the Lewisham Mayoral election and then those cast for ward councillors. Because of this it was not feasible to count both polls overnight on 22/23 May, so counting began on Friday morning, 23rd May. Counting the votes cast for the local ward councillors began at 8.30 pm, once the Mayoral count was complete. Results were declared as each ward was counted, and the final declaration was made at 2.59 am on Saturday morning.

The small size of the only available count venue determined that Lewisham could only employ a small number of count staff. Notwithstanding this, Lewisham was the first London borough to complete its count in the European election. Taking into account these circumstances, all reasonable efforts will be made to ensure that future election counts are conducted as quickly as possible without damaging the due and fair process that must be followed.

In terms of publishing results, Council goes beyond its statutory duty in providing further ward by ward breakdown. The content of and publication requirements for the actual results are determined by law with which we comply; however, we are happy to explore alternative ways of disseminating this information given the availability of improved technology.



**PUBLIC QUESTION NO. 33**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Julia Fletcher

Member to reply: Councillor Maslin

**Question**

The News Shopper last week was full of stories about the GCSE results of Greenwich Schools but very little about Lewisham schools. Why was this? What is the overall A-C pass rate for Lewisham schools this year?

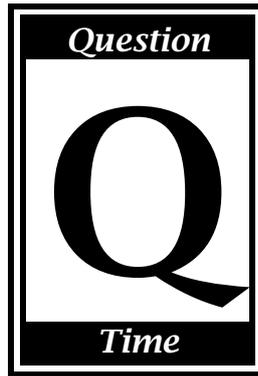
**Reply**

The overall percentage of students gaining 5+ A\* - C, including English and Maths for 2014 is provisionally 53.2%. This is a provisional schools' reported outcome and suggests that our outcomes have dropped this year. We anticipate that, nationally, the 5+ A\*-C, including English and Maths measures will also have gone down. The final results for local authority schools and for national are published in January.

Schools have reported some exceptional individual results, which we were keen to get into the press, and you can see these highlighted in our press releases and on schools' own websites.

We did submit stories to the press re our schools and their GCSE outcomes and many schools also submitted individual press releases, but we do not control what actually gets published. The News Shopper GCSE coverage did include Lewisham

schools alongside schools from other boroughs. The Lewisham coverage drew on our press releases and other information sent to them by the Council press office and by some schools themselves. There was also on-line, on-the-day rolling coverage this year in which Lewisham was well covered. However, the local media takes their own editorial decisions.



**PUBLIC QUESTION NO. 34**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: June Jolly

Member to reply: Deputy Mayor

**Question**

Is the Mayor aware that St Modwens, owners of the Leegate Centre, are proposing to use funding from Asda to redevelop the centre, with an Asda store at its centre?

Is the Mayor also aware that supermarkets tend to provide fewer net jobs and lower quality jobs than independent stores?

A 1998 study by the National Retailer Planning Forum (NRPF) examining the employment impacts of 93 superstore openings between 1991 and 1994 found that they resulted in a net loss of more than 25,000 jobs or 276 per store opened.

The Friends of the Earth 2005 'Good Neighbours?' report showed that supermarket chains control more than 80% of the grocery market and yet they employ only 50% more staff than small shops. The conclusion being that small shops are better for employment than a superstore

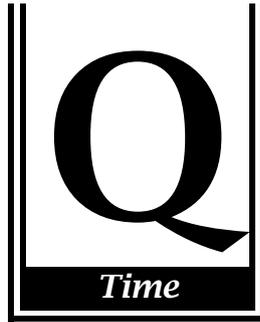
Is the Mayor also aware that In February 2006 Asda WalMart was found to and fined for having broken trade union laws by offering illegal inducements to workers to quit the GMB union?

Does the Mayor think it appropriate that St Modwens used the creation of jobs by Asda as an excuse for their plans not being compliant with Planning Laws at its recent consultation on the Leegate Centre redevelopment?

**Reply**

Please see the answer to Public Question No. 6.

***Question***



**PUBLIC QUESTION NO. 35**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Deputy Mayor

Member to reply: Stewart Whitworth

**Question**

All 3 councillors for Blackheath ward committed to the space4cycling need to turn Blackheath Village into a cycle and pedestrian-friendly shopping area. What progress has there been on this?

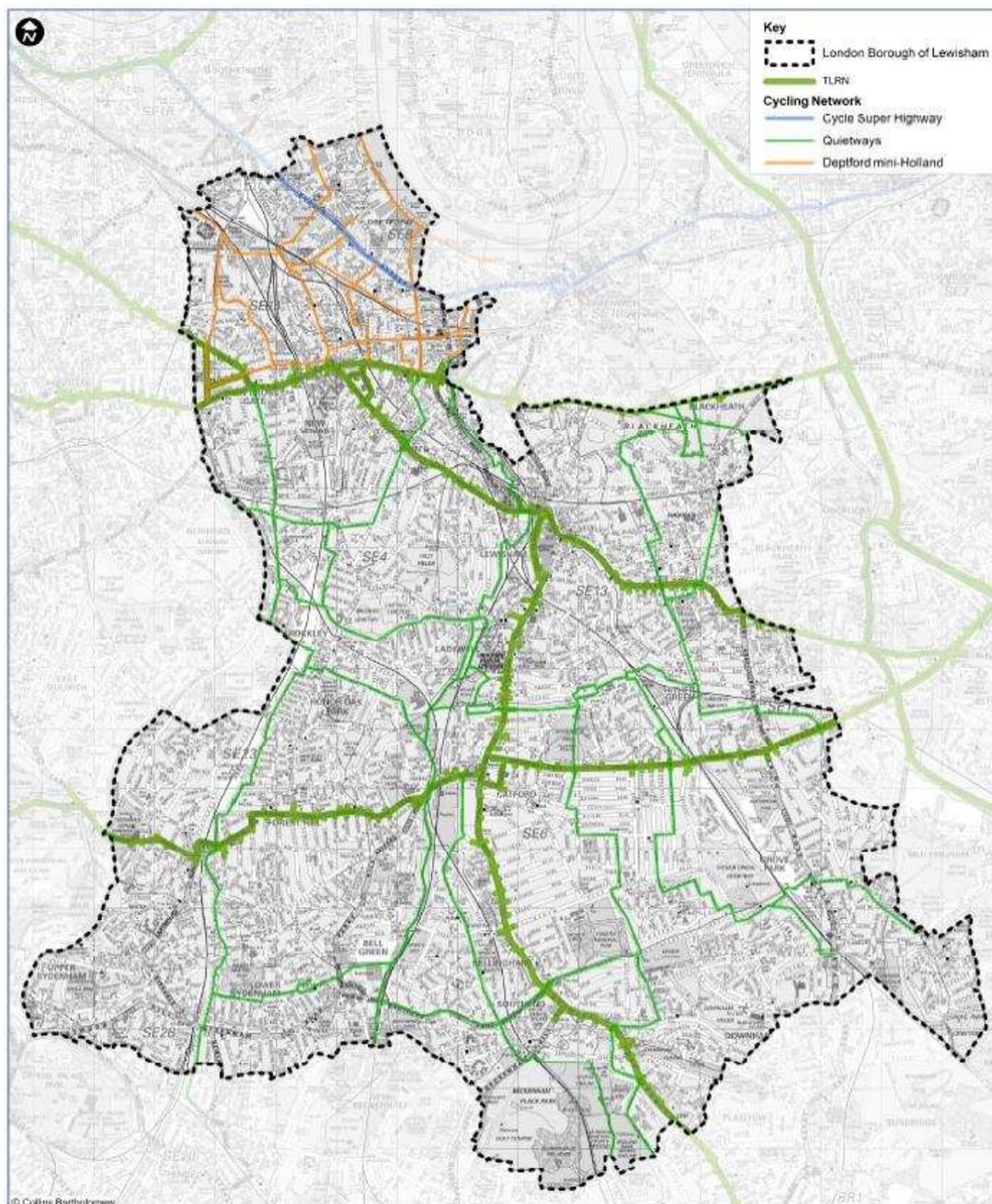
**Reply**

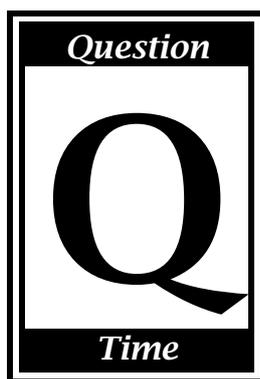
The Council is working towards the implementation of a borough-wide 20mph zone which will reduce speeds on the approaches to Blackheath Village and compliment the 20mph zone already in place in the centre of the village. Reducing speeds is a major factor in providing a safe environment for cycling and walking which supports sustainable access to the shopping area.

In addition, a cycling safety programme of education, training and route improvements is on-going. The attached map shows an indicative network of Quietways which was included in our 3 year LIP Delivery Plan. Quietways is the TFL funded programme of encouraging more cycling on the boroughs quieter roads. We

will be working towards the programme incrementally, and delivering through either the LIP programme, or through bids to any future TfL Quietways funding.

We work with all schools in the borough through the School Travel Plan programme to highlight any issues that concern the schools regarding the safer routes to schools for their pupils. Along with the proposed introduction of a borough wide 20mph speed limit will all help make Lewisham a safer place to cycle and walk.





**PUBLIC QUESTION NO. 36**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Rik Andrew

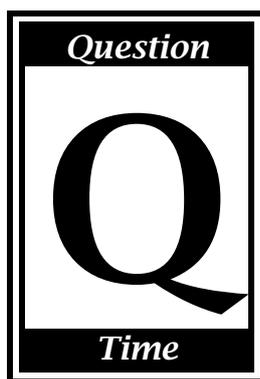
Member to reply: Deputy Mayor

**Question**

Please can LBL give serious consideration to, and submit a bid for, a high quality Cycle Super Highway along A21 from Bromley to Greenwich(A2211). There is clearly ample space available for good safe cycle only facilities, unlike other narrower A-roads in LBL.

**Reply**

The A21 is managed by TfL, therefore any improvements to the road would be the responsibility of TfL. Officers will forward this request to TfL officers for their information and consideration.



**PUBLIC QUESTION NO. 37**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Julia Brundell

Member to reply: Deputy Mayor

**Question**

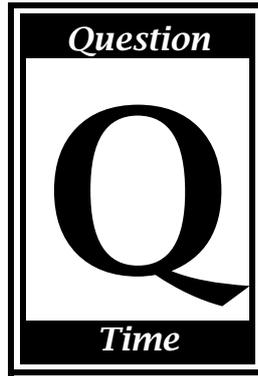
Are you aware that indisputable empiric evidence, well-known to local residents, shows the Lee Green junction to be very busy on a daily basis and heavily congested at certain hours?

Do you agree that we need less traffic in this area and more attention paid to quality of life for local residents.

The plans for the new Asda superstore in the Leegate Centre propose a single point of exit/ entry for both deliveries and customers' vehicles in Burnt Ash Road not far from the main access to the Sainsbury's via Taunton Road. How would the Council evaluate such proposals in terms of traffic congestion, road safety (three schools and a GP practice in the immediate vicinity) and amenity of the neighbourhood?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 38**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Maggie Poe

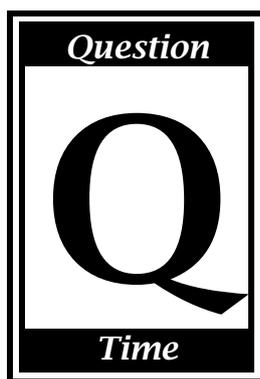
Member to reply: Deputy Mayor

**Question**

I am concerned about the proposed development at Leegate. I understand that the new development will offer up to 300 new homes. We do need more housing. What are the plans for providing educational and health services to this larger population? The current services are over-subscribed.

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO. 39**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Dave Plummer.

Member to reply: Councillor Egan

**Question**

I have heard about the international property fair called MIPIM, which has been held every year in Cannes, France, and is now due to take place in Britain for the first time, at Olympia, London, from 15 to 17 October 2014.

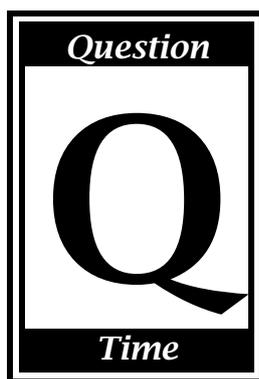
As well as developers, lawyers, banks and investors, I have learned that representatives of housing associations and local councils also propose to attend.

Since the MIPIM UK website says that it is 'the first UK property trade show gathering all professionals looking to close deals on the UK property market' I was wondering why housing associations and local councils would go. What kind of 'deals' would be likely to benefit tenants and local council residents?

I would therefore be interested to know if anyone from Lewisham Council and/or Lewisham Homes and their contractors are attending, and if so, with what purpose.

**Reply**

Officers of the Council have no immediate plans to attend MIPIM.



**PUBLIC QUESTION NO 40.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Hamilton

Member to reply: The Mayor

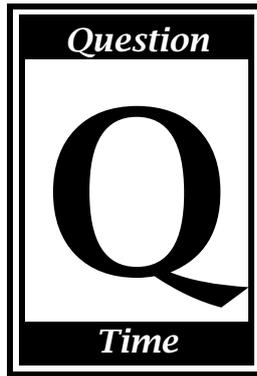
**Question**

Will the Mayor consider introducing restrictive covenants into leases where Council homes are sold under the "right to buy" legislation in order to require such a buyer to either live in the home as their main place of residence or rent it through the Council's housing office? Would you agree this could prevent former social housing from being used to further inflate the private rented sector.

**Reply**

Schedule 6 of the Housing Act 1985 sets out the covenants and conditions which may be included in the Right to Buy lease. There is a general provision permitting covenants and conditions which are "reasonable in the circumstances". Any unreasonable covenants would be void.

The Council's standard Right to Buy lease already includes a provision that the property must be used as a private residential premises for occupation by one household only. The Council's legal advice is that any covenants that further restrict the use and letting of the property would be unreasonable, and could be potentially subject to legal challenge from purchasers.



**PUBLIC QUESTION NO 41**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Woolford

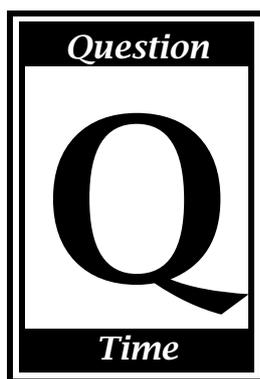
Member to reply: Deputy Mayor

**Question**

The former site of Deptford Green School was demolished and the planning consent stated clearly that in exchange for building on Fordham Park, the former school site would be turned into a new Community green space. One year on, can the Council confirm when this community space will be landscaped and returned to community use.

**Reply**

The Council is at an advanced stage of discussions with its preferred development partner and work is likely to commence on the laying out of the new open space early in the New Year.



**PUBLIC QUESTION NO 42.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Edgerton

Member to reply: Deputy Mayor

**Question**

The 'green man' time currently allowed at mechanised pedestrian crossings is calculated assuming a walking speed of 1.2 metres per second. Research by University College London has found that children aged 8 – 11 years walk at an average speed of 0.9 metres per second when accompanied by an adult or the elderly and those with mobility issues somewhat slower, meaning they are unable to walk fast enough to use a pedestrian crossing safely.

As any parent will tell you, crossing with children can be even more challenging, particularly if you are pushing a buggy. While we tell our children not to run on the road, we are simultaneously forced to urge them to hurry up! Will you join the campaign and urge TfL to amend the guidance by which crossing times are calculated to take account of those who are less mobile? Just another three seconds would allow not just children, but older people and people with mobility issues or sight impairment, to cross roads.

## **Reply**

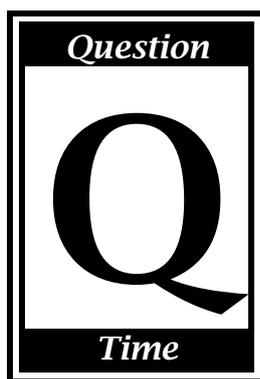
The Council supports the provision of safe crossing facilities and officers has asked TfL to justify their current approach and identify any crossings which fall short of their guidance. TfL has sent the following response:

*TfL's standard for pedestrian crossing times in London is aligned with Department for Transport (DfT) national standards.*

*For a far sided pedestrian signal, the green standing figure or invitation to cross is standardised at 6 seconds, this allows waiting pedestrians to commence crossing but will not stay on for the entire duration of the crossing movement. There is provision to increase this where pedestrian flow is high and not all pedestrians can commence during the invitation or if there are a large number of mobility impaired users. The duration of the invitation period is not defined by walking speed.*

*The duration of the clearance period following the pedestrian invitation period is determined by distance and average walking speed of 1.2m/s. The figure of 1.2m/s again is in line with national standards. The clearance period ensures that anyone who steps on the crossing just as the invitation period ends will complete the crossing movement before the signals change.*

*When the invitation and clearance periods are considered as one, a pedestrian can cross easily walking at 0.9m/s.*



**PUBLIC QUESTION NO 43.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Patricia Richardson

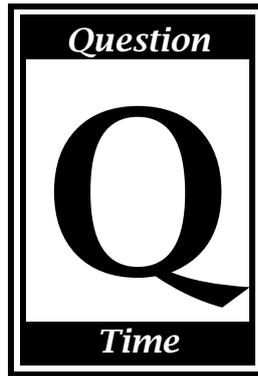
Member to reply: Deputy Mayor

**Question**

St Modwen personnel admitted that only Asda was interested as the key retailer in the new Leegate development, in spite of overtures to other supermarket retailers. Asda is a wholly owned division, a subsidiary, of the American retail company Walmart. Has the Council taken into account the tax status of this company and its tax contributions to the United Kingdom Exchequer? Does it contribute its fair share through corporation tax?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO 44.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sue Luxton

Member to reply: Deputy Mayor

**Question**

Since the legislation on SUDS (Sustainable Urban Drainage) in front gardens came into force in 2008, how many cases of enforcement action has Lewisham Council taken due to infringement of this law?

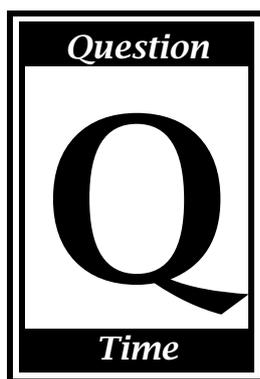
What has Lewisham Council done to raise awareness of this legislation and its implications to local people? To whom within the Council should local residents report suspected violations of SUDS law?

**Reply**

From the 1<sup>st</sup> October 2008, SUDS was only required where an impermeable surface was being installed on a front garden when bigger than 5 m<sup>2</sup>. Failure to provide SUDS simply requires a planning application to be submitted.

To date, we have received less than 10 enforcement complaints on this issue from local people. All these cases have been resolved through negotiation and have not warranted further enforcement action.

The Council does not actively raise awareness of this legislation, but will take appropriate action when we become aware of a specific violation. If local people want to report suspected violations of SUDS, they should do so via the planning enforcement email address - [planningenforcement@lewisham.gov.uk](mailto:planningenforcement@lewisham.gov.uk).



**PUBLIC QUESTION NO 45.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Maxton

Member to reply: Deputy Mayor

**Question**

In 2013 the Design Council, supported by the CABE, the RIBA the RTPI listed ten principles of Design Review as part of the National Planning Policy Framework (NPPF). Two of these principles are *transparency and accountability* saying that Design Review Panels should be “public and open about the work they do” and that meetings held in public can be “a useful part of community engagement” as well as expecting “local DRP’s to deliver reports summarising meetings’ conclusions” whilst acknowledging the need for parts of some meetings to have restricted access for good reasons.

In respect of Lewisham’s design Review Panel will the Council reveal:

- a) The amount spent on the DRP from the Council’s budget
- b) The number of occasions when physical 3-D modelling has been produced
- c) The principles underlying the Council’s attitude to public notice of, and involvement in, DRP meetings or silent observation of them
- d) Its view of the value of the re-presentation of development options

- at relevant ward assemblies
- e) If it considers that the DRP should support and report to the Strategic Planning Committee or supplant it.

### **Reply**

The Lewisham Design Review Panel (DRP) provides expert, independent design advice and guidance to developers and their design teams, Planning case officers and the Planning Committees on significant development and public realm proposals, as well as other planning documents within the borough. The costs of operating the DRP are met from the fees charged to planning applicants rather than the Council's budget.

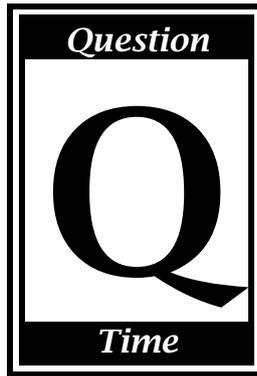
At the meetings, development proposals are presented by the developer's design team. Presentation material includes architectural models, presentations and display boards. Whilst no formal record of how many times applicants have produced 3-D models is kept, most presentations are accompanied by models.

The Council encourages schemes to be brought to the panel as early as possible within the design process in order to ensure there is a meaningful opportunity to inform emerging proposals. As such, most schemes are presented at a pre-application stage and are therefore confidential. The Panel is therefore a private meeting not constituted under the terms of the 1972 Local Government Act. If a proposal is reviewed at pre-application stage, the report remains confidential. If the proposal was reviewed at application stage, the report becomes a public document and is kept within the proposal's planning file.

The Council promote early public engagement as part of the pre-application stage. This usually involves a specific consultation event for a scheme with relevant design material displayed as opposed to a presentation at a ward assembly. However, ward assembly meetings have been used as part of pre-application public consultation for some schemes.

The role of the DRP is to provide independent design advice which is included within an eventual report to the Planning Committee. The DRP has no decision making powers.

Details of the DRP's role and how it works can be found on the Council's website at: <http://www.lewisham.gov.uk/myserVICES/planning/conservation/Pages/Design-Review-Panel.aspx>



**PUBLIC QUESTION NO 46.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Richardson

Member to reply: Councillor Best

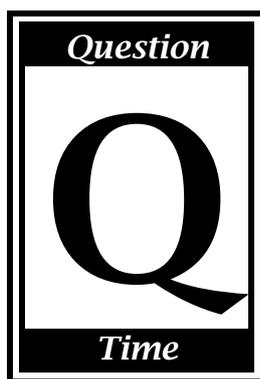
**Question**

Marriages have recently been performed in The Manor House, Old Road, Lee. Confetti was still seen littering the foot of the steps of the building several days after the services had occurred. The building is a shared venue with other services. Which council directorate is responsible for the external cleanliness and upkeep of this historic building and in the interest of presentation of the frontage, might future clean-ups be made within a reasonable amount of time instead of simply being left to disperse by the elements?

**Reply**

We are sorry if confetti has not been cleared effectively. All efforts are made to clear the front of the building and especially the steps of any confetti on the day of the ceremony. The nature of the product, however, may make it difficult to ensure that absolutely all evidence of the confetti is removed from the grounds.

Again, we apologise for the incident and can reassure the public that there is no intention to let confetti or any other litter persist on the grounds. The caretakers will pay more attention to clear the grounds more promptly.



**PUBLIC QUESTION NO 47.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

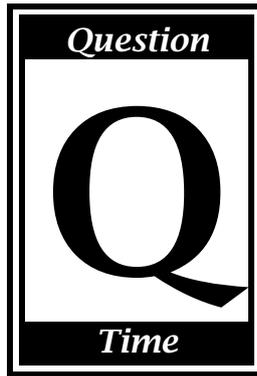
Lewisham Council commissioned a Retail Capacity Study in 2009 and its findings, in line with National Planning and London Plan requirements for an evidence based approach, were included in Lewisham's Core and Spatial strategies. In regards to Lee Green District Centre it was found that development should:

'improve the connectivity between the shopping centre and the supermarket sites'

The council is obliged to ensure its District Centres are developed in line with its planning documents. What attempts has the Council made to achieve this increased connectivity, including negotiations with Sainsburys and St Modwens.

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO 48.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Julia Fletcher

Member to reply: Deputy Mayor

**Question**

We recently submitted a petition signed by many local residents complaining about the flouting of the one-way system in Old Bromley Road. What has been done about this situation since the petition was received?

**Reply**

The Council was previously aware that residents have concerns about abuse of this one-way system and our Engineers and Parking enforcement service have previously looked at the issue in an attempt to determine whether any changes to the signs or road markings are necessary, and also to assess the extent of the non-compliance with the one-way restriction.

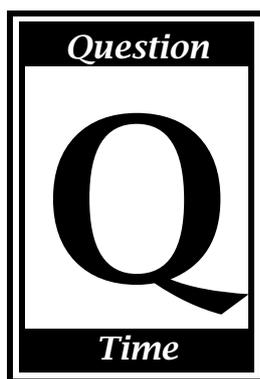
Our Engineers checked the road signs and markings for the scheme and there is a clear "One Way" sign facing the exit and additionally McDonalds have signs and carriageway markings on their premises to that effect. The signs in Old Bromley Road were checked to make sure that drivers could not turn right out of the exit mistakenly.

Given the extent of the current signing, any drivers that perform that manoeuvre are doing so, knowing full well that they are committing an offence. The Council is of the opinion, therefore, that it is very unlikely that by adding further signs that this will improve compliance but it will add to the street clutter.

The Council has a mobile enforcement capability and this has been deployed at this location several times a month for the past 9 months but over that time no offences were seen to be committed and no PCNs were issued.

In an effort to apprehend drivers making the illegal manoeuvre we recently parked the enforcement vehicle in a location where an offender would not have been able to see it until after the offence had been committed. This has not so far resulted in any PCNs being issued. Additionally, one of our Engineers was positioned in McDonalds car park for over an hour but witnessed no contraventions. Every vehicle correctly exited via Ashgrove Road.

Consideration could be given to look at switching that short stretch of Old Bromley Road (just up to the exit from McDonalds) back to a two way operation but, given the limited evidence of non-compliance and current funding constraints, it is unlikely that we could justify the costs of such a scheme. In any event, the Council will continue with sporadic enforcement and monitor the level of non-compliance in that way before considering the matter further. It should be noted, however that the Council is aware of up-coming legislation where essentially Local Authorities may lose the ability to continue to carry out mobile enforcement of offences such as abuse of one-ways.



**PUBLIC QUESTION NO 49.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Stewart Whitworth

Member to reply: Deputy Mayor

**Question**

All 3 councillors for Lewisham Central ward committed to the space4cycling need to create a protected cycle route into Lewisham from Lee High Road  
What progress has there been on this?

**Reply**

What progress has there been on this?

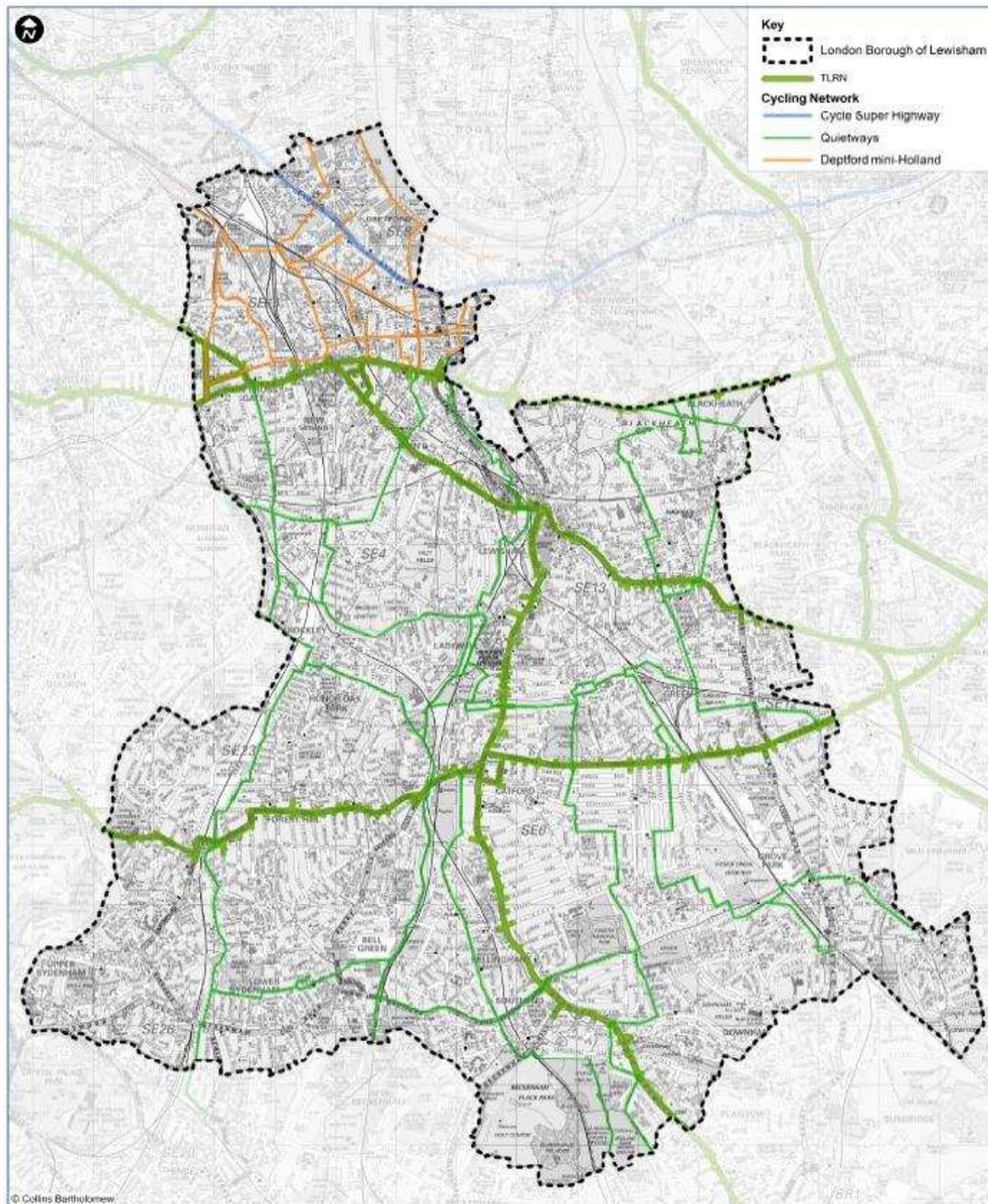
**Reply**

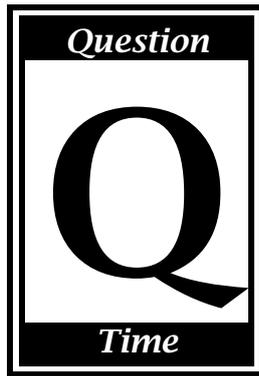
Lee High Road is managed by TfL, therefore any improvements to the road would be the responsibility of TfL. Officers will forward this request to TfL officers for their information and consideration.

However, a cycling safety programme of education, training and route improvements is on-going. The attached map shows an indicative network of Quietways which was included in our 3 year LIP Delivery Plan. Quietways is the TfL funded programme of encouraging more cycling on the boroughs quieter roads. We will be working

towards the programme incrementally, and delivering through either the LIP programme, or through bids to any future TfL Quietways funding.

We work with all schools in the borough through the School Travel Plan programme to highlight any issues that concern the schools regarding the safer routes to schools for their pupils. Along with the proposed introduction of a borough wide 20mph speed limit will all help make Lewisham a safer place to cycle and walk.





**PUBLIC QUESTION NO 50.**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Dave Plummer

Member to reply: Deputy Mayor

**Question**

There is a noticeable lack of public toilet facilities in Lewisham. This has a particular impact on the elderly, disabled and families with young children but also affects the entire community. As well as the obvious practical impact it contributes to public health and hygiene problems.

Could the Mayor please advise:

- What conditions are being placed on new developments to include a provision for public toilet facilities
- What plans Lewisham Council has to install public toilet facilities in recently redeveloped areas, such as Ladywell Village
- How successful the Catford Community Toilet Scheme has been, how many businesses have signed up and whether or not it's going to be rolled out across Lewisham
- How many complaints or comments were received during the year 2013 - 2014 about public toilets and related public health and hygiene concerns.

## Reply

Lewisham currently provides 11 automatic public conveniences (APC's) which are provided and maintained by contractors JCDecaux and Healthmatic.

The APC's are in the following locations,

New Cross  
Lewisham  
Grove park  
Sydenham Station  
Holme Park  
Sandhurst Rd  
Forest Hill  
Downham

In addition there are 13 public conveniences located in the boroughs parks at the following locations,

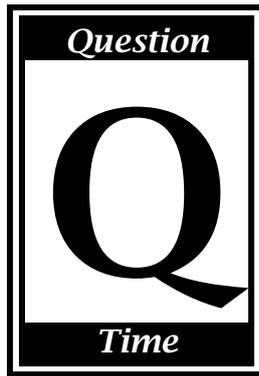
Brookmill Park  
Deptford Park  
Hilly Fields  
Ladywell Fields  
Horniman Triangle Play Park  
Manor House Gardens  
Mayow Park  
Mountsfield Park  
Sydenham Wells Park  
Telegraph Hill  
Chinbrook Meadows  
Forster Memorial Park  
Beckenham Place Park

Any conditions placed on new developments to provide public toilets relate to the Planning Department.

There are no current plans to provide additional public toilets within the borough due to financial constraints.

There is no record of complaints in relation to public toilets and related public health and hygiene.

The Council will expect new developments which attract large numbers of visitors/customers to make adequate provision for public conveniences, which are well located and signed in relation to pedestrian flows, car parks, public transport and other public places and are accessible for all.



**PUBLIC QUESTION NO 51.**

**Priority 3**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Hamilton

Member to reply: The Mayor

**Question**

I understand from election literature that the Mayor agrees with Lewisham People Before Profit and others who have advocated a register of private landlords in the borough in order that standards of private rented sector housing may be monitored and overcrowding prevented. Does the Mayor agree that this can only work if it is compulsory, as in the Borough of Newham and not voluntary, as he is reported as having proposed?

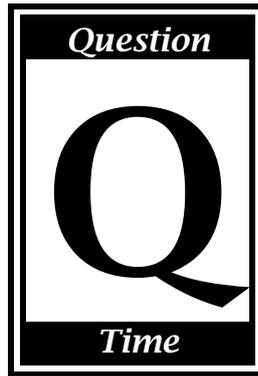
**Reply**

The Housing Select Committee has received a presentation by L B Newham on their experience of borough wide additional and selective licensing earlier this year. As a result the Committee has called for a scoping document on the question reviewing Newham's experience in closer detail and also the experience of other boroughs that have introduced whole borough schemes and others that have adopted other discretionary schemes. The experiences of L B Enfield, Waltham Forest and Brent are of particular interest. The report is due to be presented to Scrutiny Committee in December. Officers are also

researching the business case, which we are legally obliged to consider, in parallel with preparing the scoping document.

The legislation requires us to consider discretionary licensing in the context of our overall housing strategy, to be clear about what objectives licensing will serve, and to demonstrate that any proposed scheme can be expected to assist in achieving the objective(s) and that there are no other powers that could be used to achieve the same aim.

The authority is committed to tackling poor conditions in the private rented sector and has set up a Rogue Landlord Taskforce which is working hard to drive them out of business in our borough. If the business case for discretionary licensing is properly made, there is every intention to introduce one.



**PUBLIC QUESTION NO 52.**

**Priority 3**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Edgerton

Member to reply: Deputy Mayor

**Question**

May I remind you of my question 3 to Council 27th November 2013 and your reply which follows:

'Lewisham High Street, as part of the Red Route network, is the responsibility of Transport for London (TfL), not of the Council. Also all traffic signals in London are the responsibility of TfL.

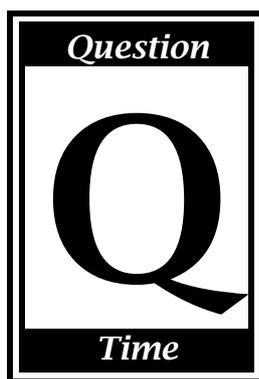
TfL now have a scheme, which they are currently completing detailed design on. We understand that the works should begin on site in April 2014 and will continue for 3 months. The scheme will include the Lewisham High Street/Courthill Road junction. A toucan crossing is proposed across A21 (north side) and also crossings on Whitburn Road and Courthill Road "arm".

It is disappointing to note that as of 5th June work has still not commenced.

When will work now start on this deadly junction?

## **Reply**

TfL have been on site since the 26<sup>th</sup> August and have commenced their works in Longbridge Way. The scheme is programmed to be complete by the 10<sup>th</sup> December 2014.



**PUBLIC QUESTION NO 53.**

**Priority 3**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Patricia Richardson

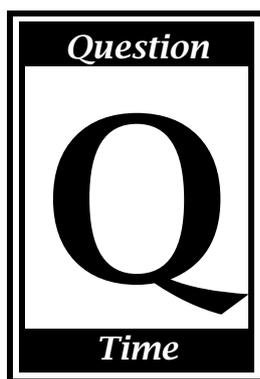
Member to reply: Deputy Mayor

**Question**

Last year I asked the Council a question on the possible impact of increased traffic to the Leegate area if the development went ahead. The Council answered that such impacts would be considered at the time of the planning application. We know now that there will be 250 housing units with underground parking for a proportion of that number. Where will those without an allocated space and any visitors park? Will this have an impact on local CPZs?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO 54.**

**Priority 3**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sue Luxton

Member to reply: Councillor Onikosi

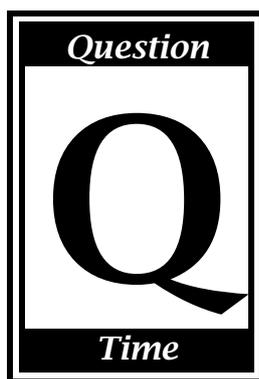
**Question**

Both last summer and this summer, Lewisham's garden waste collection service has struggled to cope with demand, with 4-5 week waits for collection of green bags not uncommon and the availability of green bags in local libraries at best sporadic. What measures do the waste and recycling team propose to take to improve the service going forward?

**Reply**

The Council is currently exploring all the options in relation to our waste and recycling services. A number of the options being considered include the potential provision of a more comprehensive and regular garden waste service.

Once the Council has had the opportunity to consider and scrutinise the options a report will be taken to the Mayor and Cabinet with recommendations for any changes in service provision.



**PUBLIC QUESTION NO 55.**

**Priority 3**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Maxton

Member to reply: Deputy Mayor

**Question**

Will the Council please give an update on all recent developments (some involving the GLA/TfL) as they affect:

- a) The Catford Plan ( and update the unchanging 2012 website);
- b) CRP Ltd in its anticipation of the gradual closure of the Centre's retail leases and consequent loss of income in 2014/15 and 2015/16; and
- c) The prospects of re-letting Catford Centre site vacated by WH Smiths in July.

**Reply**

a) Following publication of the independent 'Roads Task Force' report in July 2013, the Mayor of London requested that Transport for London (TfL) and the London boroughs look again at long established road improvement proposals and how they might be implemented. This included the long established proposals to improve the

A205 South Circular road in Catford Town Centre by relocating the A205 road behind Laurence House.

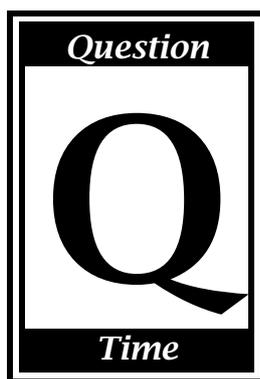
The Catford Town Centre Local Plan (CTCLP) had taken the view that these proposals were unlikely to be implemented and set out a new policy that committed the Council to abandon the TfL proposal to realign the South Circular to the rear of Laurence House. As a result of the Mayor of London's request it was concluded that there was merit in re-examining the original TfL A205 road improvement proposals and TfL agreed to undertake a study to investigate. If, as a result of the study, TfL continued to support their original proposals or some other third way then significant modification of the CTCLP would be required. As the report was not expected until summer 2014 and then would need discussion and consideration, the Council concluded that the best option would be to withdraw the CTCLP from Examination.

A very high level initial concept report has recently been received in draft from TfL which outlines the benefits/dis-benefits of the proposal. Lewisham Officers are currently reviewing the report and raising a number of queries and are seeking a meeting with TfL during September to receive further information to assist full consideration. Work on the CTCLP is expected to resume with further work carried out once the results of the TfL review are evolved and worked through.

The Catford Local Plan and Regeneration web pages were updated when the decision was made to withdraw the CTCLP from Examination. Once the TfL review is worked through and work on the CTCLP resumes, the web pages will be updated with any new information and timeframes.

b) To date, a definitive proposal/ timescale for the gradual closure of the Catford Centre linked to securing vacant possession has not been confirmed and are all subject to the future proposals/ viability of the centre within the context of a comprehensive regeneration/transformation of Catford. Within the context of the wider regeneration aims, CRPL have a requirement to ensure the effective management of the centre ensuring that the operational management standards remain high and that the full commercial potential of the centre is being realised through letting and renewal strategies. The current profile of the retailers includes expiry dates between 2015 and 2024, which indicates an active asset management and re-letting of the units until such date of closure will be confirmed.

c) Since January 2014, the vacated WH Smith site has been under offer to another retailer, called Sam 99. CRPL recognise that the inclusion of another 99p brand, increases the number of retailers with this type of offer within the centre, however, took the view that it was the best potential letting within the context of the future regeneration. A building survey has identified a few issues that we are currently trying to resolve before the tenants take occupation within next few weeks.



**PUBLIC QUESTION NO 56.**

**Priority 3**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Richardson

Member to reply: Councillor Best

**Question**

Lewisham's Public Library Service monitors visits to all of their branches and the issues made therein.

It is understood that they issue statistics monitoring all media loaned, not simply those in print (i.e. books)

When will the figures be made public for the financial year 2013 to 2014?

Is any attempt made to list printed books only in order to produce comparative data which may or may not support the suggestion that the printed book is probably in terminal decline - a fact which may have significance on the provision by Local Government of a Library Service in the future?

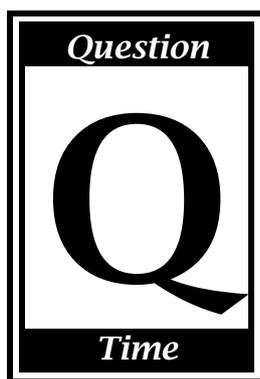
**Reply**

Public Library Statistics are published annually by the Chartered Institute of Public Finance and Accountancy (CIPFA) which gathers the returns from 206 UK local authorities. These are now publicly available free of charge on this website: <http://www.ipf.com/cipfavalidation/login/login.asp?type=OTHER&dest=www.cipfastat.s.net/leisure/publiclibrary/default.asp>

The CIPFA Public Library Statistics for 2013-14 will be published in December 2014.

The statistics for library issues are broken down by the following categories: Adult Fiction; Adult Non-fiction; Children's Fiction; Children's Non-fiction; Music Sound Recordings; Talking Books – Adult and Children's; Videos and DVDs; Multi-media and Open Learning packs; CD-Roms and Software E-books; E-audio and E-audiovisual.

The statistics broken down as described above allow the reader to look at the issue of books separately from that of other media.



**PUBLIC QUESTION NO 57.**

**Priority 3**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Woolford

Member to reply: Councillor Onikosi

**Question**

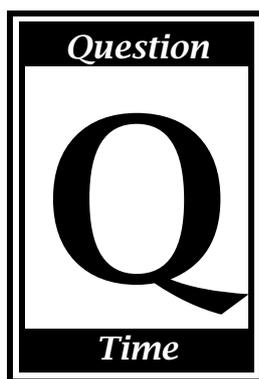
With the council open to substantial compensation claims from home owners in streets such as Hunsden Road SE14, for failure to cut and maintain streets trees, Can the Council please confirm when it will be carrying out urgently needed tree maintenance in New Cross Ward and other areas ?

**Reply**

Council officers are unaware of any compensation claims from residents in Hunsden Rd relating to the maintenance of street trees.

The Council has a borough wide 3 year cyclical maintenance program for street trees that have been identified as requiring regular works to help prevent them causing damage to property or becoming a risk to public safety .

This includes, where identified, street trees in New Cross Ward Road. If residents have any concerns about the condition or maintenance of street trees they should contact the Councils Tree Services Team directly.



**PUBLIC QUESTION NO 58.**

**Priority 3**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

Lewisham's Development Management Local Plan 2.12 states that 'Planning policies should promote competitive town centres that provide customer choice and a diverse retail offer.

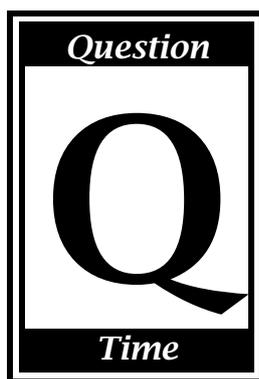
The Council's 2009 Retail Capacity Study, upon which its Spatial Strategy for Lee Green is based, states that there is a 'shortage of comparison, A3/4/5 provision' and that 'convenience shopping is well served'

As the 8<sup>th</sup> smallest of Lewisham's 9 District Centres, Leegate has insufficient space to provide for both another supermarket –sized competitive convenience shopping provision and more choice and diversity in the form of comparison and A3/4/5 shops.

Given that Lewisham's Retail Capacity Study prioritises diverse retail offer in Lee Green does the mayor consider it more important to provide competition for existing convenience shopping in Lee Green (which is already 'well served' for convenience shopping) or to increase provision for comparison, A3/4/5 shopping (of which there is a 'shortage')?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO 59.**

**Priority 3**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Julia Fletcher

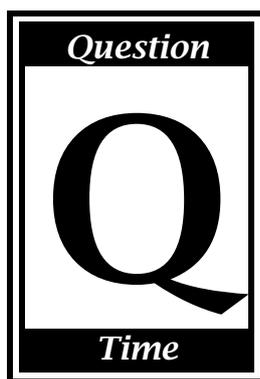
Member to reply: Deputy Mayor

**Question**

We were told that gas works at the Tiger's Head junction in Bromley Road were to be completed this August. Does the Cabinet know whether or not this work has been done? If it has been done what steps are being taken by the Council to ensure the long promised pedestrian safety improvements are implemented?

**Reply**

TfL have updated Officers and have informed them that they intend to start on site on the 29<sup>th</sup> September 2014. Officers understanding are that easements were required by Southern Gas Networks (SGN), to establish a right of access through private land for a diverted gas main that is required as a result of TfL realigning a kerb. TfL's works in September will commence in areas where there is no conflict with SGN, before moving on to the remaining areas after SGN have completed their gas mains works.



**PUBLIC QUESTION NO 60.**

**Priority 4**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Patricia Richardson

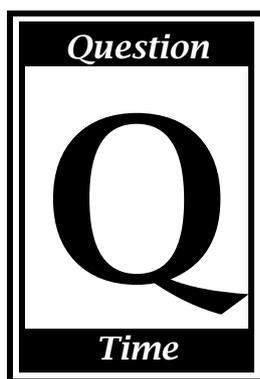
Member to reply: Deputy Mayor

**Question**

Asda is set to provide space for 300 cars visiting its store in Lee Green. Has the Council investigated yet how much of an hourly increase in car traffic this will lead to? What might be the estimates of increase for Saturdays and Sundays? The crossroads junction at Lee Green already copes poorly with pedestrian, car, bus, truck and cycling traffic in spite of changes by TFL. Can the Council guarantee that the risk factors will not be increased by more congestion?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO 61.**

**Priority 4**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Maxton

Member to reply: Deputy Mayor

**Question**

When redevelopment or other necessity requires a local authority to acquire the leasehold interest in a citizen's property it is sometimes the case that the moving leaseholder is offered the opportunity to acquire an original leasehold in a new development either on the site of the old one or further away should both events be reasonably coincidental. This is commonly known as 'leasehold swap.'

Can a brief account be given of any use of this practice in the borough by the Council since 1990?

**Reply**

The Council has managed a number of estate regeneration schemes since 1990 that have involved acquiring leaseholders' interests in their properties. The Council is committed to helping leaseholders through this buy-back process.

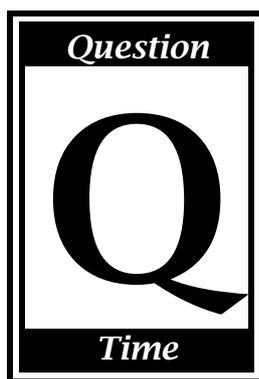
The overriding principle is that leaseholders' interests are purchased at market value with an additional "home loss" payment as a percentage of the value of the property (10% for resident leaseholders and 7.5% for non-resident leaseholders). The Council also pays reasonable costs of moving including independent surveyor and legal fees. Non-resident leaseholders are not provided with a re-housing option, while

depending on the scheme, resident leaseholders may be able to use the equity they have in their current home to part buy a share in a new home built as part of that development (subject to availability). This is not referred to as a 'leasehold swap' but is on the basis of a shared equity or shared ownership model.

The scheme location and build programme are key factors as they shape the order in which a site can be developed. A regeneration scheme generally requires the first phases of the development to be vacant so that building works can commence. With residential schemes this may mean that leaseholders within the first phases would not be able to be offered a new home in the development through the shared equity/ownership model as none would have been built. The Council may be able to work in partnership with other housing providers to offer advice about accessing other shared equity/ownership properties

Although the Council may use its Compulsory Purchase powers in order to deliver a regeneration scheme where agreement with leaseholders cannot be reached, the Council's preferred and principle approach is to buy back leaseholders through negotiation. Support is offered through one to one meetings to discuss individual circumstances and any re-housing options available. Should there be no on site shared ownership available, Officers would endeavour to provide advice and support as required by the leaseholder.

It should be noted that there is no obligation to offer an option to purchase a new home in a regeneration scheme and while the Council does strive to make this available where possible, our development partners may offer different options or may only seek to purchase the current property.



**PUBLIC QUESTION NO 62.**

**Priority 4**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

The London Plan and the Councils Retail Capacity Study suggest councils increase their use of Compulsory Purchase Powers to purchase property on the grounds that it is mostly empty as per The Planning and Compulsory Purchase Act May 2004.

The National Planning Framework also states that 'CPOs can be used to ensure that 'needs for retail, leisure, office and other main town centre uses are met in full'.

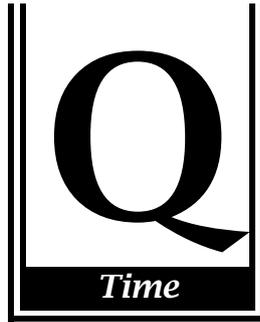
Lewisham's Site Allocations Local Plan at 2.3 states: Where comprehensive redevelopment of an area is indicated, the Council may choose to use its compulsory purchase powers'

Does the Mayor believe that if the current owners of the (mostly empty) Leegate Centre, which sits at the heart of Lee Green district centre, are unwilling to provide a solution in line with Lewisham's own planning policies, then the council could use its Compulsory Purchase Order powers to purchase the site for itself or on behalf of a third party who would provide the funds, to achieve a satisfactory outcome for Lee Green?

**Reply**

Please see the answer to Public Question No. 6.

**Question**



**PUBLIC QUESTION NO 63.**

**Priority 4**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Woolford

Member to reply: Councillor Maslin

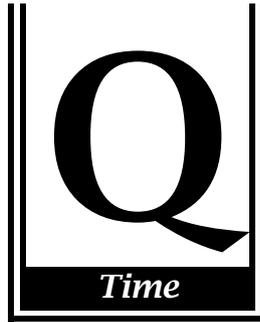
**Question**

Can the Council confirm that all the boroughs primary schools are on track to deliver hot meals to all Children this term, in line with new government policy?

**Reply**

Yes – I am happy to confirm that all Lewisham schools are delivering free school meals to their key stage 1 pupils and have been doing so since the start of the Autumn term.

***Question***



**PUBLIC QUESTION NO 64.**

**Priority 4**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Richardson

Member to reply: Councillor Egan

**Question**

It is understood that Lewisham Council has accepted a target of 33,000 housing units to be constructed by 2026. Of these, approximately 20% or 6,600 units would be made available as "affordable housing".

Is the Council confident this number is likely to match the requirement for such housing considering the population of the Borough is likely to continue to grow at its current rate?

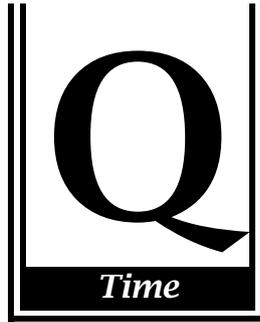
**Reply**

Lewisham's Core Strategy aims to deliver 18,165 new dwellings by 2026, this is based on the 2011 London Plan targets. Of this total there is an aspirational target of 50 per cent affordable units. It should be noted however that government funding for affordable housing has been cut by nearly 60% since 2010.

The London Plan is currently under review as The Mayor of London now acknowledges that London's population is likely to increase significantly more than he anticipated. In Lewisham's case any review, is accepted, is likely to increase our target by 25%.

I am very concerned about the shortage of housing in the borough and across London especially at social and affordable levels. What is clear is that we need to build more homes, and build them across all tenures. We also need all boroughs to play their part. In Lewisham we exceeded our housing build targets over the past decade but unfortunately the same cannot be said for all parts of our capital.

***Question***



**PUBLIC QUESTION NO 65.**

**Priority 5**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

The Government-Commission 'Beyond Retail' report, published in 2013 recommends councils use infrastructure funding programmes in town centres such as Tax incremental Finance, Income Strip Deals and Pooling Land Assets to raise funds for development.

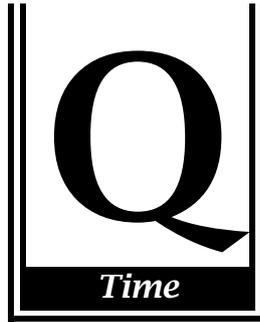
Councils such as Stockport and Rochdale have been advanced in making use of these new forms of finance and the report recommends more councils do the same.

Does the Mayor envisage Lewisham Council adopting some of these financing schemes to finance its town centre developments in the future?

**Reply**

There have been no specific plans agreed to date that use the financing structures suggested. However, as part of the Council's regeneration planning for each scheme these and other financing models are considered on their merits.

***Question***



**PUBLIC QUESTION NO 66.**

**Priority 5**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Patricia Richardson

Member to reply: Councillor Best

**Question**

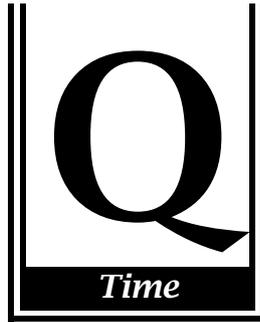
Will changes to Service Management related to CEL concerning Wesley Halls classes lead to any alterations.

**Reply**

CEL has been offering a range of provision from Wesley Halls for a number of years. For the academic year 2014/15 there is a considerably increased offer of 35 planned courses from across 4 separate departments. Some of these courses have been relocated to Wesley Halls as part of the move from Pragnell Road to the new site at Baring Road.

It is recognised that it may take some time for learner numbers to grow and there will be ongoing publicity about this course offer. CEL is committed to running this course offer for this academic year.

***Question***



**PUBLIC QUESTION NO 67.**

**Priority 5**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mr Richardson

Member to reply: Councillor Onikosi

**Question**

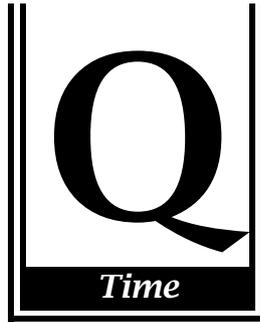
In July proposals to impose a CPZ in a new zone of Lee Green, to be called Lee Green West were put to public consultation along with a long awaited review of the adjacent CPZ zones F, P and V. Both asked the public if they might prefer different operational timings to the currently established 0900 - 1700 applicable to the particular zones in question. Amongst those suggested was a two-hour period 1200 - 1400 such as that in operation in Bromley which is designed to prevent commuter parking and which has a great deal of support in Lee Green. Should the outcome of the review favour this method, is the Council likely to accede to public pressure and impose the necessary change?

**Reply**

On the 10 April 2013 Mayor and Cabinet agreed a set of recommendations which updated the Council's parking policy following a detailed review. This was followed by the Parking Annual Report on the 23 October where the Mayor agreed a 3 year controlled parking zone review and implementation programme. Good progress has been made on the programme with work taking place to review and consult local people in the Lee Green area and consultation due to start in Ladywell in September.

The parking policy says that there must be a minimum 10% turnout for the consultation and that there must be a majority in favour of the proposals for them to be implemented. On this basis, if the outcome of the consultation in the Lee Green area has a majority in favour of the introduction of a two hour zone this will be implemented.

**Question**



**PUBLIC QUESTION NO 68.**

**Priority 6**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

Spacial Policy 3 for Lee Green states that plans should 'Improve Civic Space'.

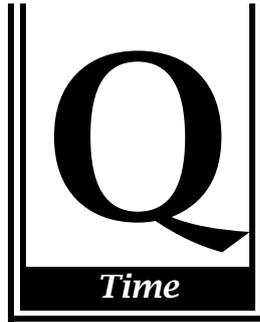
Spacial Strategy 3 C states that: 'Connectivity improvements to and throughout each district centre will be prioritised where development opportunities arise and where the Council can play a lead role. The emphasis within the District town centres will be to protect the existing open spaces from development and to promote environmental improvements which enhance the role of the centre and its attractiveness for those who shop there and use other services. The strategy seeks to create a permeable, memorable and sustainable place'

Does the Mayor agree that the size and quality of the existing civic space in the Leegate Centre must be protected?

**Reply**

Please see the answer to Public Question No. 6.

***Question***



**PUBLIC QUESTION NO 69.**

**Priority 6**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Mrs Richardson

Member to reply: Chair of the Council

**Question**

In view of the Council's proposal to circulate full Council meetings around the borough of Lewisham does the Council consider it has enough suitable venues, taking into account size, accessibility, facilities and room for the public to attend - should there be the possibility of large numbers wishing to attend?

Has it been ascertained whether this approach would be more costly, less costly or about the same? If the first 2 are considered, how much money is involved?

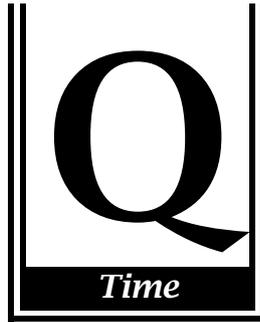
**Reply**

I believe there are likely to be a range of suitable venues across the Borough in which Council meetings could take place. For example the Council's secondary school estate offers access to accommodation appropriate in size, accessibility, facilities and room for the public to attend. There are also other venues in Lewisham such as Goldsmiths College that can offer suitable accommodation.

Officers are examining premises across the borough and will be evaluating sites in order to prepare a possible future programme for examination by elected members. It would be premature to make a prediction about likely costs at this stage, as they will be dependent on the location, venue and timing. It is anticipated that the use of Deptford Green School as an initial experiment will be broadly cost neutral and in

accordance with the Councils aim to allow access to the process of the Council to local communities.

***Question***



**PUBLIC QUESTION NO 70.**

**Priority 7**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

Does the Mayor believe that increased job creation is reason to not comply with existing plans for District Town Centres as laid out in Lewisham's Spatial Strategy? If so, what analysis does the council require of suggested employment numbers being created versus numbers that could be created under more appropriate plans?

**Reply**

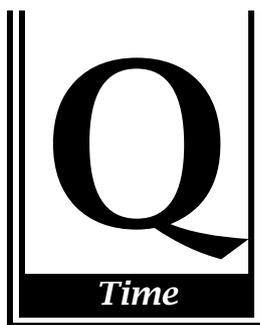
The formal planning situation is that policies for dealing with planning applications in town centres are set out in the various Local Plans adopted by the Council. In accordance with planning law, decisions on planning applications should be made in accordance with policies set out in the development plan. The development plan for Lewisham consists of the London Plan 2011 and various adopted Lewisham Local Plans. Policies relating to town centres are set out in the Core Strategy, the Lewisham Town Centre Local Plan and the Development Management Local Plan.

As outlined in the development plan, the primary function of the district centres is retail, and supporting this function is considered essential in maintaining and contributing to the vitality and viability of the district centres. While a range of other uses, including service use and employment uses, contribute to the vitality and

viability of centres, this is a secondary function of the district centres in the retail hierarchy.

There are no job creation or employment targets specified for district centres in the development plan, however, it is acknowledged that local economic activity is concentrated in the district centres. A mix of uses across the district centres is anticipated and, with planning applications, the Council expects applicants to submit material in relation to employment and to demonstrate how this would be delivered. This would also include working with the Council's Economic Development team in Local Labour initiatives.

**Question**



**PUBLIC QUESTION NO 71.**

**Priority 8**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

Is the Mayor aware that St Modwens, owners of the Leegate Centre, are proposing to use funding from Asda to redevelop the centre, with an Asda store at its centre?

Is the mayor also aware that it is likely that the net impact to the area would be harmful as supermarkets retain less expenditure within the local economy than local businesses?

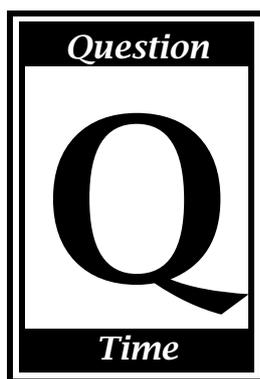
Is the Mayor also aware that supermarkets tend to provide fewer net jobs and lower quality jobs than independent stores? A 1998 study by the National Retailer Planning Forum (NRPF) examining the employment impacts of 93 superstore openings between 1991 and 1994 found that they resulted in a net loss of more than 25,000 jobs or 276 per store opened.

The Friends of the Earth 2005 'Good Neighbours?' report showed that supermarket chains control more than 80% of the grocery market and yet they employ only 50% more staff than small shops. The conclusion being that small shops are better for employment than a superstore

Is the mayor also aware that In February 2006 Asda WalMart was found to and fined for having broken trade union laws by offering illegal inducements to workers to quit the GMB union?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO 72.**

**Priority 9**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

Section 7.23 of The London Plan states 'The massing, scale and layout of new buildings should help make public spaces coherent and complement the existing streetscape. They should frame the public realm at a human scale and provide a mix of land uses that enhance permeability in the area'.

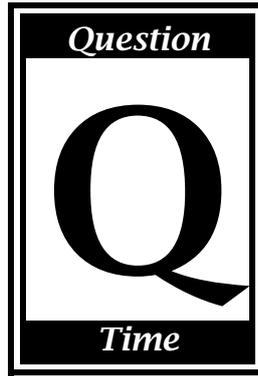
London Plan 7.21: Architecture should contribute to the creation of a cohesive built environment that enhances the experience of living, working or visiting in the city. This is often best achieved by ensuring new buildings reference, but not necessarily replicate, the scale, mass and detail of the predominant built form surrounding them, and by using the highest quality materials. All buildings should help create streets and places that are human in scale so that their proportion and composition enhances, activates and appropriately encloses the public realm, as well as allowing them to be easily understood, enjoyed and kept secured. The building form and layout should have regard to the density and character of the surrounding development.

Lewisham's Core Strategy 6.34 states that new buildings must 'provide a 'sense of place' through new buildings and spaces and an enhanced street environment that

would raise the overall standard of design and environmental quality and improve the permeability and accessibility of the area'

- a. Does the Mayor and his Cabinet believe that current levels of massing at the Leegate Centre should not be increased in any future plans for the site?
- b. Does the Mayor and his Cabinet believe that, as stated in the London Plan and Lewisham planning documents, levels of permeability at the Leegate Centre should not be decreased in any future plans?

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO 73.**

**Priority 10**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

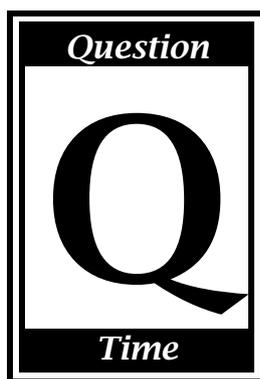
**Question**

The National Planning framework says: 'Planning must be a creative exercise in finding ways to enhance and improve the places in which we live our lives. This should be a collective enterprise. Local planning authorities have a key role to play' (Ministerial Foreword). The London Plan and Lewisham's planning documents are also littered with sections stressing the importance of meaningful community involvement in development.

Does the Mayor believe that the need for meaningful community engagement has been satisfied with regards to proposed plans for the Leegate Centre by St Modwen's 1.5 day consultation an plans in which residents had had no input, were misinformed on the facts, were not advised of the short cut-off date for response and who's website response page had an inbuilt bias (allowing for two positive, one neutral and one negative response)?

**Reply**

Please see the answer to Public Question No. 6.



**PUBLIC QUESTION NO 74.**

**Priority 11**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

Question asked by: Sarah McMichael

Member to reply: Deputy Mayor

**Question**

The London Plan 4.49 states: 'The Mayor recognises that street and farmers' markets can make valuable and distinctive contributions to meeting Londoners' varied dietary requirements and extending competitive choice and access to a range of goods, as well as contributing to the vitality and wider offer of town centres'.

Lewisham's Core Strategy states that District Hubs should 'provide for town centre businesses and markets' (section 6.93)

Does the Mayor agree that existing markets must be protected, and that, where their sites are redeveloped, they must be provided with a new on-site location that enhances their environment and does not worsen the congestion and pollution to which shoppers at the market are subjected?

and pollution to which shoppers at the market are subjected?

**Reply**

The contribution that farmers' and street markets make as part of the mix of retail provision across the borough is recognised in various places in Lewisham's Core

Strategy, including in Core Strategy Objective 4 (e) which, among other aims, seeks to protect and enhance ‘the district shopping centres, local shopping centres, parades and the range of farmers’ and street markets, as providers of sustainable local shopping facilities and services to continue to support basic community needs.’

Core Strategy Policy 6 directs major retail development, leisure and related town centre uses to major and district centres and states that the Council will also ‘support the retail hierarchy through farmers’ and street markets within the town centres, local centres and parades’ and states that farmers’ and street markets throughout the borough will continue to play a vital part in retail provision.

The Core Strategy Vision for Lewisham 2026 considers that street markets will be central to supporting the vitality of Lewisham and Catford major centres and Deptford district centre. In relation to growing the local economy of the District Hubs in general (paragraph 6.93), ‘providing for town centre businesses and markets’ is an important aspect, alongside a suite of other measures, that should also be considered in protecting and promoting employment and economic activity.

Any proposed redevelopment of market sites should consider the impact of the loss of the market on the district centre and the ongoing ability of the centre to provide for the day to day needs of the local community. The loss, and the potential re-provision of any markets, should be considered as one aspect contributing to the overall health of the centre.

The Core Strategy also protects and improves air quality in Core Strategy Policy 9 Improving local air quality, and seeks to ensure that access and safety of pedestrians and cyclists throughout the borough in Core Strategy Policy 14 Sustainable movement and transport.

	Obligation	Obligation Amount	Paid	Spent/Allocated	Project Funded
Loampit Vale – DC/08/69895/X (case reference provided is for a withdrawn application) DC/09/71246	Open Space Contribution	£10,000	£10,000 5/10/2012  £9,031.42 26/10/2012	Yes	Improvements to Cornmill Gardens.  The nature of the proposed works covers enhancement and repair of what is already an area of high quality public realm. The works required are being assessed and measures may include a number of the following elements: <ul style="list-style-type: none"> <li>- Replacement and repair of play equipment and surfaces</li> <li>- New paths and routes</li> <li>- Repairs to hard landscaping</li> <li>- New planting</li> <li>- Top dressing of lawn</li> <li>- Litter bins</li> <li>- Artist led enhancements – bridges, river banks and farmers market</li> <li>- Artist led community engagement</li> </ul>

					projects
	Bus Stop Contribution	£15,000	22/9/2010	No	
	Traffic Calming Contribution	£45,000	22/9/2010	No	
	CPZ Contribution	£45,000	22/9/2010	No	
	Traffic Management Contribution	£10,000	22/9/2010	No	
	DLR Contribution	£20,000	21/10/2010	No	
	Employment and Training Contribution	£50,000	27/4/2010	Yes	The project provides the post of a Local Labour and Business Coordinator (LLBC) who will manage and develop the Local Labour and Business Scheme (LLBS) to identify and deliver local labour and procurement opportunities for the benefit of Lewisham residents and businesses. This contribution alongside those from other developments will fund the ongoing LLBS from 2013 to 2016. The LLBS project was created to use planning

					<p>agreements to provide training and employment opportunities for unemployed residents as well as assistance for local businesses to access business opportunities through and as a result of the various construction developments taking place in the borough.</p> <p>As an example of the initiatives undertaken through the LLBS, a local business (Rhubarb and Custard) was located to run the café in the Loampit Vale development, ensuring 13 job opportunities for local employment were secured.</p>
	Environmental Monitoring Contribution	£50,000	27/4/2010	Yes	The funding is being utilised to obtain baseline data through measurement and modelling so changes in the local air, noise and land quality arising from new developments in Lewisham town centre

					can be measured.
	Town Centre Management Contribution	£50,000	Payment is not yet due*		
	Monitoring Contribution	£23,000	17/03/2010	Yes	Fees to support Council monitoring of the development

\*Please note, it appears that a previous response to a Council question incorrectly attributed a sum received from a nearby site to the Loampit Vale development.

	Obligation	Obligation Amount	Paid	Spent/Allocated	Project funded
Thurston Road - DC/10/76005	Town Centre Improvements	£50,000	£60,310.55 5/2/2014	The Council are currently undertaking initial work to enable the allocation the spending of these monies towards improvements.	
	Transport Contribution	£220,000	£223,010.68 5/2/2014	As above.	

Employment and Training Contribution	£50,000	£58,136.23 5/3/2013	This has been allocated towards local labour initiatives.	
Education Contribution	£225,000	£228,079.11 5/2/2014	Yes	John Stainer School Enlargement
Monitoring Contribution	£16,750	30/3/2012	Yes	Funds the S106 Officer position to monitor S106 agreements
Professional Fees	£16,095.90	30/3/2012	Yes	The provision of specialised expert opinion on development viability

	Obligation	Obligation Amount	Paid	Spent / Allocated	Project Funded
<b>Lewisham Gateway – Outline planning application no. DC/06/62375 and DC/06/62375B</b>	River Quaggy Improvement Contribution	£250,000	No – payment is not yet due		
	Waterlink Way Fund Contribution	£100,000			
	End user training Contribution	£50,000			
	Contribution towards installation of an air quality monitoring station	£50,000			
	Lewisham Town	£50,000			

Centre Manager Contribution				
Professional fees Contribution	<p>£100,000 overall:</p> <p>£50,000 on completion of Agreement (RECEIVED 27/04/2009);</p> <p>£25,000 on submission of the first Reserved Matters in the North Area (RECEIVED 08/02/2013);</p> <p>£25,000 on submission of the first Reserved Matters in the South Area</p>	Partial payment of £75,000 received to date	Yes	Funding the ongoing provision of specialised expert advice
Monitoring Fee	£10,000	Yes	Yes	Funds the S106 Officer position to monitor S106 agreements

# Agenda Item 5

COUNCIL		
<b>Report Title</b>	Member Questions	
<b>Key Decision</b>		Item No.
<b>Ward</b>		
<b>Contributors</b>	Chief Executive (Head of Business & Committee)	
<b>Class</b>	Part 1	Date: September 17 2014

### Questions from Members of the Council

Section C, paragraph 14 of the Constitution, provides for questions relevant to the general work or procedure of the Council to be asked by Members of the Council. Copies of the questions received and the replies to them will be circulated at the meeting.

**QUESTION No. 1**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Hall  
of the Mayor**

**Question**

Would the Mayor provide a statement on the progress in delivering his priorities following the local elections?

**Reply**

The election results in May were humbling for myself and for the Labour Group as a whole. The responsibility placed in our hands is one I take very seriously and it is essential that we live up to the commitments we made during the campaign. That means delivering more affordable homes in Lewisham, creating more jobs and apprenticeships for our residents, ensuring there are enough good quality school places for our children, and tackling the cost of living crisis.

In some ways the most important decision I have made since May has been the appointment of my new Cabinet, the thinking behind which I explained in my AGM speech in June. A few short months later, I am confident I have the best team around me to meet our priorities. In the weeks following their appointment I met with each individual Cabinet member to agree specific priorities in their portfolios linked to the programme set out in the majority group's manifesto. They have, without exception, made a positive and energetic start to the new administration and we are already starting to see the results of their work.

In some areas we have already made significant formal decisions. At Mayor and Cabinet in early September I agreed the delivery of 64 more council homes, a first step on the road to delivering 500 by 2018. Developments like these and those being brought forward by housing associations and the private sector across the borough are not only bringing new homes, but also

jobs and public realm improvements that will transform the prospects of local people and rejuvenate many areas of the borough.

Our own apprenticeships programme began its sixth round of recruitment in June advertising 54 vacancies, while work progresses on our innovative Community Budget work with Lambeth and Southwark, transforming the way we work together with our partners in the further education sector and with Jobcentre Plus to get people with the most complex needs into work.

In June I agreed the enlargement of Sir Francis Drake Primary School to provide desperately needed additional primary school places – a controversial decision for some, including many parents at the school, but one that is unfortunately necessary to ensure we can provide a school place for everyone who needs one. As well as continuing a programme of school expansion, we have begun developing a strategy to ensure our secondary school results match the outstanding achievement of our primary schools.

While I am pleased with the progress we have already started to make so soon after the election, it has become clear that once again the most significant challenges we face as an administration will be financial. “Salami-slicing” services - gradually reducing budgets by small incremental steps - is simply not a viable approach to the council’s budget as it now stands. It will make many services unviable in their present form and in many cases shunt costs around and build up further problems for the future. What we need to be doing is radically reforming and redesigning our services to tackle the demand pressures they face and deliver the best outcomes in a new way.

With £85M of savings to find over the next three years, inevitably a substantial amount of officer and member time will need to be devoted to this. We have engaged our residents in the task through the Big Budget Challenge website. Members and officers are going out to the community through Local Assemblies to talk to them about the changes we need to make. And the Lewisham Future Programme will soon publish proposals that will be scrutinised and debated in detail over the coming months.

The challenge for all of us in this context is to build an organisation that can meet the needs and aspirations of the people of Lewisham, that can grasp the opportunities that this community and this city create, and that can go on delivering our ambitious programme.

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Roy Kennedy**  
**of the Deputy Mayor**

**Question**

What action has been taken to deliver the pledge of a 20 mph speed limit on all roads in Lewisham under the control of the authority.

**Reply**

A detailed project plan and timetable for the implementation of a borough wide 20mph zone is being developed and will be presented to Mayor & Cabinet in November 2014.

**QUESTION No. 3**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Jeffrey  
of the Cabinet Member for Children and Young People**

**Question**

What assurances can be given that child sexual exploitation is being fully reported in Lewisham and that victims, particularly any who are looked after children, and perpetrators are being dealt with appropriately by the Police, social services, schools, the safeguarding board and any other partner agencies?

**Reply**

London Borough of Lewisham has worked with the Metropolitan Police and others in the development of multiagency arrangements to identify and protect children at risk of child sexual exploitation. We have circulated guidance on indicators of child sexual exploitation to our colleagues in health, education and youth services so that people who work with children are able to spot the signs and refer children at risk to Children's Social Care. Specialist staff, such as Child Protection Conference Chairs and Independent Reviewing Officers have been trained so that they can develop effective plans to promote the safety of all children and young people, including those who are in care.

Multi Agency Child Sexual Exploitation Meetings are held every month. The meetings are chaired by the police and attended by key agencies such as Children's Social Care, Sexual Health Services, Care Providers, Youth Offending Service and Attendance and Welfare. These meetings identify patterns of exploitative activity as well hotspots which are then targeted by the police and the immigration authorities. Annual Reports are provided to the LSCB (Lewisham Safeguarding Children's Board) which sets out the profile of child sexual exploitation and outcomes for children, in addition to the Board dealing with any issues that may arise at any other time.

The LSCB Task Group on Child Sexual Exploitation is currently reviewing the recommendations made by the Independent Enquiry into Child Sexual Exploitation in Rotherham to see what lessons can be learned to further strengthen our response to child sexual exploitation in Lewisham.

All our looked after children are visited on a 6 weekly basis and we only place children in residential homes that have good or outstanding grades from OFSTED. Senior Managers in Children's Social Care also visit the homes to quality assure them.

We have a dedicated worker who works with missing children, often a sign of child sexual exploitation to make sure each child is followed up. We have also developed links with Children's homes in the Borough to ensure that they are dealing with this issue. These homes are rarely used by Lewisham as we do not consider them appropriate for our looked after children but other boroughs place their children in these homes

We cannot be complacent however and this continues to be an area of development and we will learn lessons as we progress in this work.

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Ibitson**  
**of the Deputy Mayor**

**Question**

St Augustine's Primary School, including students from the school council, have complained many times, as have local police, about the problem of motorbikes and other inappropriate vehicles speeding along the footpath which runs alongside the school. Students and staff say this has caused noise and disruption to classes and difficulties when the children are outside the school and moving to and from the adjacent church. The organisation Sustrans have offered advice, as the situation is complicated by the fact that the path in question is a part of the London Cycle Network (LCN) and therefore must be DDA compliant. Engineers from Sustrans have suggested that some options, including improved signage, staggered bollards at appropriate distances and creative artwork might be a deterrent. Will a member of the appropriate Council team agree to discuss these options and how they might be implemented with the school?

**Reply**

It is particularly difficult to introduce measures which successfully stop small motorised vehicles using paths without significant detriment to the accessibility of pedestrians, cyclists, wheelchairs and prams.

The Council has had some success with enforcement of such issues in areas covered by CCTV. A Council Officer will be happy to meet to discuss the issues and options.

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Barnham**  
**of the Deputy Mayor**

**Question**

Please could I have an update on the developments affecting the frequency and performance of train services to and from Crofton Park station, and an assessment of what more the Council and its partners might do to improve them.”

**Reply**

Network Rail own and run the track and signalling throughout the country. However the Government lets franchises to Train Operating Companies to run passenger rail services on specific lines or groups of lines.

Crofton Park station is served by the Catford Loop Line. The services and stations on this line are currently operated by a joint venture between Southeastern and First Capital Connect.

In 2012, the Council was invited by the Department for Transport to respond to their consultation on the re-franchise of a combined Thameslink, Southern and Great Northern franchise. This would incorporate the Catford Loop Line as part of the Thameslink franchise.

Lewisham worked with both regional and local partners to respond to the consultation, making the best possible case for improving the services and stations on that line. This included liaison with the Crofton Park Transport User Group and their helpful input was included in the Councils' official response.

We now know that Govia has been awarded a 7 year Thameslink franchise from 14th September 2014 which encompasses the Catford Loop Line. This is split into three timeframes:

- September 2014: The franchisee starts operating – taking on services currently operated by First Capital Connect (FCC).
- December 2014: The franchisee takes sole responsibility for the current shared services between FCC and South Eastern – this will include the Catford Loop services.
- July 2015: The franchisee will increase in geographical size, encompassing the services currently operated by Southern (including Gatwick Express branded services)

The Catford Loop line will benefit from the introduction of new Siemens Class 700 trains between 2016 and 2018. These state of the art trains will operate on that route in fixed 8 car formation (so no more 4 car trains). The trains are high capacity, extremely accessible, secure, energy efficient and air conditioned. They also feature the latest passenger information systems which will update passengers on train running information. This is welcome news as modern and reliable rolling stock was a key element of our consultation response.

Trains on this route will be branded as 'Thameslink'. The service level we will operate on this route will continue on a similar level to now, i.e. two trains per hour in the off peak. This is in line with the specification set out for the franchise by Department for Transport. This is a particular disappointment as frequency enhancements were arguably the single most significant improvement sought by the Council and local stakeholders.

However, the franchise does include a limited funding pot of £50m to spend on station improvements, and a further £1.5m to fund Station Travel Plans. The Council is currently engaging with Govia with the aim of developing a positive working relationship and to start discussions on their potential investment in the borough.

**QUESTION No. 6**

**Priority 1**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Curran  
of the Deputy Mayor**

**Question**

What legal and/or court action remains open to the council to enforce the court ruling against the developers Purelake with regard to The Greyhound pub in Sydenham and has Counsel's advice been obtained?

**Reply**

Counsel has been instructed and we await their advice.

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Coughlin  
of the Cabinet Member for Resources**

**Question**

As a council we are proud to be an accredit living wage employer. As such why do we not pay people on Lewisham Council internship schemes, the London Living Wage?

**Reply**

The Council is indeed extremely proud to be one of the first two local authorities to successful achieve Living Wage accreditation. However, the Living Wage accreditation does not cover apprentices and interns as the Living Wage Foundation recognises that providing training experiences for interns can have financial and human costs for employers.

We realise that the cost of living is scandalously high for our young people, and that is why we are proud to offer paid internships to our residents when most internships are unpaid. In this regard the Council follows good practice and advice from Government, which recommends that interns should be paid the national minimum wage, (Code of Practice for Quality Internships issued by the Department for Business Innovation & Skills)

The current level of pay reflects the following factors:

(1) To keep parity between Council's interns and apprentices on the local apprentices scheme where Council placements are only one third of the total number and the rate is determined by external market conditions. (In the apprentices' second year they are paid the London Living Wage as the first year has a greater training emphasis.)

(2) To ensure clarity that interns are not simply covering what should be work carried out by properly qualified staff.

(3) To ensure there is a differential between interns who are learners and employees on evaluated grades.

(4) To ensure the scheme is marketable to other local employers in the future.

We will of course keep the level of pay under regular review. In the meantime, we have received lots of interest from young people who are keen to engage in a fantastic experience that not only provides a chance for them to develop their talents and ambitions but will hopefully lead to much needed decent employment. The rate at which we pay our interns has not deterred applicants and has not been raised as an issue in the feedback forms interns complete at the end of their placements.

**QUESTION No. 8**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Hall  
of The Mayor**

**Question**

Will the Mayor indicate his support for The Fellowship Inn project and Lottery bid?

**Reply**

The Fellowship Inn project promises to deliver an exciting range of community facilities to the benefit of residents in the south of the borough. I certainly give this project my strong support and offer whatever assistance the Council can offer to help deliver this innovative project.

**QUESTION No. 9**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Ibitson  
of the Deputy Mayor**

**Question**

At the February 2014 council meeting, I was told that Aldermoor Road in SE6 was a 'high priority' for resurfacing during the year 2014-15. Please could I have an update on this situation? When will Aldermoor Road be resurfaced?

**Reply**

The Council's new resurfacing contract will commence from October 2014. After this date a programme for works will be devised with the tenderer that has been awarded the contract. It is intended to commence the resurfacing programme in October 2014 and will be completed before the end of this financial year. Aldermoor Road will be included on this programme and residents and Councillors will be informed, when the date is known.

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Roy Kennedy  
of the Deputy Mayor**

**Question**

Residents living in Crofton Park and Honor Oak Park are becoming increasingly concerned following the recent series of accidents in and around the Stondon Park area. Will the Cabinet member look into these concerns urgently and take up the issues with council officials and other relevant authorities?

**Reply**

The Council recognises the serious issue of road safety collisions in and around the Stondon Park area and put plans in place last year to address the road safety issues through the Council's Local Implementation Plan (LIP).

In October 2013, the Council approved a 3-year delivery plan for the LIP. This included a detailed study of issues and opportunities for the corridor comprising Brockley Rise, Brockley Road and Stondon Park.

The initial findings of this study are currently open for consultation. As well as making the initial proposals available on the Council website, displays have been erected in local public facilities including Crofton Park Library and St Andrew's Church where the consultants will also be holding drop-in sessions.

All feedback from individuals and groups will be considered, and updated plans will be published later this year.

If Transport for London are satisfied that the finalised plans meet the Mayor of London's strategic transport objectives, they will fund their implementation. The finalised plans will be implemented on a phased basis, to limit as far as possible any potential disruption to traffic on this corridor.

**QUESTION No. 11**

**Priority 2**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Coughlin  
of the Cabinet Member for Housing**

**Question**

As a council, we are rightly delighted that we are able, for the first time in many years, to build new council houses. Would the council agree with me that the 'right to buy' scheme is inimical to the provision of social and affordable housing and is there any way we can protect our new council homes from being sold off into the private sector?

**Reply**

Right-to-Buy should not threaten our new Council Home building programme as to some extent expenditure in relation to new build housing is "protected".

A cost-floor calculation exists which establishes that if the Council were to lose money by selling at the eligible discount then the purchase of the property could be refused. While a property could be prevented from being sold for less than it cost to build, a tenant can reapply at a future point, and be re-evaluated. The Housing Act 1980 does give secure tenants the legal right to purchase the home they live in, at a discount. This right is embedded in legislation and applicable nationally. So we cannot just decide independently not to offer the right to buy.

That said I believe we should be concerned about the level of discounts now being offered, currently the maximum is £102,700.

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Ibitson**  
**of the Deputy Mayor**

**Question**

Please clarify the provision of festive lighting within the Skanska street lighting contract.

**Reply**

The Authority must provide Skanska with any festive decorations to be installed across the borough of which Skanska will install, maintain and remove as part of their contractual requirements.

Once removed Skanska will test and inspect these decorations to ensure these can be used for the following year.

If the decorations only have 2 year life expectancy then the Authority should be informed by Skanska and a decision will be made to replace or not (depending on budget).

The provision of Christmas trees and the dressing of these trees is not included in the contract. The authority will have to pay for this service which is priced accordingly from our Schedule of Rates within the contract.

There is already an agreed list of decorations being installed across the borough. If any further decorations are required to be installed then the Authority will have to pay for these to be supplied to Skanska.

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Roy Kennedy  
of the Cabinet Member for Resources**

**Question**

What action is the Council taking to firstly register those residents of the borough that are eligible but presently not on the register of electors and secondly what action is being taken to meet the Individual Electoral Registration (IER) challenge ?

**Reply**

A fundamental change to electoral registration is taking place. Under the old system, one person in every household was responsible for registering everyone else who lives at that address. Now each person is required to register to vote individually. Under Individual Electoral Registration (IER) electors will need to provide their date of birth and national insurance number, when applying to register.

We can transfer many electors from the old electoral roll onto the new roll. We can do this where the details we have on electors match the details held by the Department of Work and Pensions (DWP) on those individuals.

Lewisham Council was one of the first to be called upon to transfer its electoral roll data to DWP for matching. The results were marked as no match, weak match or full match. Our results were 69% full match; 5% weak match and 26% no match.

The DWP does not tell us why a person has not matched. It may occur, for example, because a person's name or address is expressed slightly differently on the DWP database and electoral roll. Because of this, it is possible that some members of the same household will be automatically included on the new electoral roll and others may not. Where there is no match at all, it is probably because the person has moved. A high number of

mismatches for this reason is to be expected in a borough like Lewisham with a large transitory population.

On a second match conducted by Electoral Services using local data, the percentage of matches in Lewisham reached approximately 77%.

### July/August activity

*Confirmatory letters* – We wrote to everyone automatically transferred onto the new register (approx 152,000) to confirm that.

*Invitation to Register (ITR)* – We invited all the people on our electoral register whose data did not match the DWP data (approx 46,000) to register on the new electoral roll under the new rules. These people must provide a date of birth and national insurance number to register. If they do not respond we will send reminders and then knock on doors.

*Household Enquiry Forms (HEF)* – Where electors did not respond to the last canvass, or where properties are shown as void on our database, we sent an enquiry form to those households asking for details of who lives there (approx 21,000). Once we have that information we send an invitation to register to the individuals concerned. If there is no response to the enquiry form, we will send reminders and then knock on doors.

Electoral Services are now processing the responses to the ITR and HEF forms. There are many, many thousands and additional temporary staff, who have been recruited to handle what is a much more heavily paper based and bureaucratic system to administer. Pressure on electoral services teams across the country in this transitional phase is intense.

### Canvass

We will employ canvassers to door knock in October until 24 November 2015 prior to publication of the new register on 1 December 2015.

### Maximising registration

There is a real risk that numbers on the electoral roll will fall because of this new process and so we have put in place a plan to encourage registration, particularly where registration rates are low. Many of the wards with low match rates have a high student population and 5 of them are in the Lewisham Deptford constituency.

### Engagement activities to date

Efforts to engage locally complement those being taken or to be taken nationally and we are focussing our efforts to dovetail with wider Electoral Commission initiatives. We have been given £27,000 by the Cabinet Office to conduct engagement initiatives for IER. Because of the emphasis on processing at present, our engagement strategy, though under way, will gain

more momentum in the Autumn as until then, the main emphasis in Electoral Services has to be on the significant and previously unseen operational demands of implementation. Even so, to date we have carried out or arranged the following activities with a view to maximising registration:-

- a) analysed matching data by ward to identify areas of low registration and profiled issues on a ward basis.
- b) carried out local matching with Council Tax records and are currently pursuing more matching with tenancy and benefit files where possible.
- c) attended (and continuing to attend) citizenship ceremonies regularly to encourage registration at that point.
- d) attended a stall at Lewisham People's Day in July 2014 with information on IER and how to register, with leaflets, posters, badges and mugs with contact numbers freely available to the public. We took names and addresses of those without access to the internet and followed up.
- e) produced an article in August Lewisham Life about IER and how to register, with one to be included in each of the next 3 editions of Lewisham Life.
- f) promoted IER by inclusion of information about it in the "Welcome to Lewisham" pack which is sent to every new resident.
- g) provided a promotional button on the Council's website containing information about IER and links to relevant sites.
- h) We have joined a partnership with 25 other London boroughs to run an advertising campaign for IER. This will include posters at key transport interchanges and on buses. This joint initiative will also have adverts in the Metro and Evening Standard. The first phase coincided with the first phase of IER from 4<sup>th</sup> to 14<sup>th</sup> August. The second will happen as the canvassers are go out to knock on doors in the Autumn.
- j) Posters are being distributed to libraries, community centres and other information sites in August.
- k) We have promoted IER on the Lewisham email newsletters to which there are currently approximately 22,000 subscribers, with take-up increasing by about 800 per month.
- l) Lewisham's Electoral Services department currently receives a list from Council Tax Services department every month of people who have recently registered for Council Tax. We follow up by sending information and registration forms to the newly registered Council Tax payer. From Autumn, this will be modified to reflect the new registration system.

We recognise that the wards with the lowest match rates have high concentrations of student residents, who frequently move both within, and in

and out, of the borough, so we have also put in place a number of initiatives targeted at the further and higher education student population. These include:-

m) meeting with the Registrars at both Goldsmiths and Lewisham College to arrange for Electoral Services' attendance at their Freshers Fairs with information about and to promote registration at the beginning of the academic year in September/October.

n) agreed to attend a registration event at Goldsmiths in the Autumn focussing on the students' general interaction with the Council. At this event it is anticipated that there will be an incentive for students to attend as it will also give practical advice on claiming Council Tax discount and exemption.

o) the link to the Register to Vote website is to be produced at the end of student enrolment documents at Lewisham College and Goldsmiths, and a leaflet explaining IER is to be included in student registration packs.

p) We will attend secondary schools in the Autumn term to encourage registration by those aged 16 years and over.

q) At the Young Mayor election in October, we hand out Oyster card holders which feature a design on the front promoting registration generally. This year the design will focus on IER with contact details and website address. Information on IER will be available for young people as they attend to vote.

r) The Young Mayor manifesto guide will carry details of IER and urge those reading it to register under the new system with relevant advice on how to do so, including website addresses.

s) It is current practice to send a birthday card to people on the register reaching the age of 18 years informing them of their right to vote. We intend to modify the message for those not automatically transferred onto the new register urging them to register under the new system or lose their newly acquired right to vote. We will provide information on how to register under the new system including relevant web addresses.

#### Future engagement activity

The initiatives listed above are only the start of our attempts to maximise registration. We realise that we will need to make determined efforts to minimise the risk of people disappearing from the electoral register. In the very near future, we intend to implement a range of further activities to include:-

- Liaise with Lewisham Homes, Phoenix and other housing associations operating in the borough to ask them to include IER promotional material in their new tenancy packs.

- Visit care homes in the borough to encourage residents to register under the new system.
- Approach voluntary and community organisations in the borough to seek their help in getting the message across to hard to reach groups, particularly those with English as a second language.
- Ask the Young Mayor and advisors for their ideas about the best way to reach young people and encourage them to register under the new system, recruiting their assistance and using social media where possible.

**QUESTION No. 14**

**Priority 4**

**LONDON BOROUGH OF LEWISHAM**

**COUNCIL MEETING**

**17 SEPTEMBER 2014**

**Question by Councillor Roy Kennedy  
of the Cabinet Member for the Public Realm**

**Question**

What progress is being made on reviewing the residents parking schemes in the borough to better support local residents and local business?

**Reply**

On the 23 October 2013 the Mayor agreed a 3 year controlled parking zone review and implementation programme. Since then good progress has been made with work taking place to review and consult local people in the Lee Green area and consultation due to start in Ladywell in September.

A detailed update on the review and implementation programme will be included in the Annual Parking Report which will be considered by the Sustainable Development Select Committee on 30 October 2014 and Mayor and Cabinet on 12 November 2014.

# Agenda Item 6

COUNCIL		
<b>Report Title</b>	Announcements or Communications	
<b>Key Decision</b>		Item No.
<b>Ward</b>		
<b>Contributors</b>	Chief Executive	
<b>Class</b>	Part 1	Date: September 17 2014

## Recommendation

The Council is invited to receive any announcements or communications from the Mayor or the Chief Executive.

### 1. Councillor Alan Pegg

Former Councillor Alan Pegg died in Lewisham Hospital on Monday 28 July at the age of 81.

Alan served many years as a local Councillor and for all that time represented Sydenham East ward. He was first elected when Lewisham and Deptford Boroughs merged in 1964/5. He lost his seat at the 1968 election but was re-elected in 1971 and remained a Councillor at every subsequent election until he stood down in May 2002. He served on numerous Committees during his Council service and was Chair of the Planning Committee for some time.

His funeral took place on Friday 22 August at 1.15p.m at Eltham Crematorium. His family requested no flowers but donations to the Friends of University Hospital, Lewisham.

The Council will be asked to observe a minute silence in his memory.

### 2. Queen's Birthday Honours List

Honorary Freewoman Erica Pienaar was made a Dame (DBE), in the Queen's birthday honours list.

The Council is asked to congratulate Erica on the award of this honour.

<b>COUNCIL</b>			
<b>Report Title</b>	2013/14 FINAL ACCOUNTS AND EXTERNAL AUDITORS REPORTS		
<b>Key Decision</b>	No	Item No.	
<b>Ward</b>	All		
<b>Contributors</b>	EXECUTIVE DIRECTOR FOR RESOURCES AND REGENERATION		
<b>Class</b>	Open	Date:	17 September 2014

## 1 PURPOSE

- 1.1 The purpose of this report is to present to Council the External Auditor's reports (Audit Findings and Value for Money) on the audit of the Council's 2013/14 main accounts and Pension Fund accounts and to obtain members' approval of the Statement of Accounts for 2013/14 (including the Annual Governance Statement).
- 1.2 The Audit Findings Reports are attached, and set out:
 

*"...the key matters and audit findings arising from the 2013/14 audit of the financial statements...whether the accounts present a true and fair view of the financial position and have been properly prepared.....and whether you have put in place proper arrangements to secure value for money in your use of resources."*
- 1.3 The pre-audit draft Statement of Accounts have been on the council's website since the end of June 2014. In the interests of not printing large amounts of paper, copies have not separately been despatched with this agenda, but they are available on request.

## 2 EXECUTIVE SUMMARY

- 2.1 As at the date of despatch of this report, the audits were substantially complete and the External Auditor, Grant Thornton, anticipates that unqualified opinions on the financial statements will be issued. The External Auditors reports were discussed at the Audit Panel on 11 September 2014.
- 2.2 This report therefore sets out the recommendations necessary to ensure that the statutory requirements are met.
- 2.3 The external auditor requests that Members:
  - Note the adjustments to the financial statements in the reports
  - Approve the letters of representation on behalf of the council
  - Agree the recommendations in the proposed action plans

2.4 Under the council's constitution these matters will be for council to determine.

### 3. RECOMMENDATIONS

3.1 Council is recommended to:

- i. Note the adjustments to the financial statements in the Audit Findings Reports
- ii. Agree the Action Plans set out in the Reports
- iii. Approve the Letter of Representation on behalf of the Council
- iv. Approve the Annual Governance Statement (AGS)
- v. Approve the 2013/14 audited Statement of Accounts

### 4. POLICY CONTEXT

4.1 Completing the audit of the council's accounts and receiving the auditor's report thereon contributes directly to the council's tenth corporate priority:

- **Inspiring efficiency, effectiveness and equity:** ensuring efficiency and equity in the delivery of excellent services to meet the needs of the community.

### 5. DETAIL

5.1 As at the date of despatch of this report, the audits were substantially complete and the external auditors, Grant Thornton, anticipate that subject to completing their outstanding work they will be giving an unqualified opinion on the financial statements and be giving an unqualified value for money conclusion.

5.2 By virtue of paragraph 8(3) of the Accounts & Audit Regulations 2011 ("The Regulations") the Council must, by no later than 30 September 2014:

- a. Consider either by way of a committee or by the members meeting as a whole the statement of accounts;
- b. Following that consideration, approve the statement of accounts by a resolution of that committee or meeting;
- c. Ensure that the statement of accounts is signed and dated by the person presiding at the committee or meeting at which that approval was given; and
- d. Publish (which must include publication on the body's website), the statement of accounts together with any certificate, opinion, or report given or made by the auditor under section 9 (general report) of the 1998 Act.

- 5.3 The Audit Panel have already considered the reports and officers' responses to them in detail and a short summary will be provided at the meeting. By considering that summary, Members will have discharged their duty under regulation 8(3)(a).
- 5.4 The draft accounts have been amended for the agreed findings of the audit and the Letter of Representation by the Executive Director for Resources and Regeneration and the Chair of Council will be signed accordingly.
- 5.5 Members are therefore, by recommendation 3.1(v) to this report, recommended to approve the accounts.
- 5.6 Officers will ensure that the correct protocols for the signature and publication of the accounts are followed, to ensure compliance with the requirements of The Regulations.

## **6 ANNUAL GOVERNANCE STATEMENT**

- 6.1 This document has been slightly updated from that considered at the Audit Panel on 25<sup>th</sup> June 2014 to reflect the completion of a few items and is submitted for approval.

## **7 FINANCIAL IMPLICATIONS**

- 7.1 There are no direct financial implications in agreeing the recommendations in this report.
- 7.2 The cost of external audit services in respect of 2013/14 was £292,000, including the cost of the audit of the accounts and the certification of grant claims and returns. The cost of the Pension Fund audit was £21,000.

## **8 LEGAL IMPLICATIONS**

- 8.1 The key legal requirements are set out in paragraph 5.2 of this report. By agreeing the recommendations of this report Members will have put in place appropriate authority and arrangements to ensure that these are complied with.

## **9 EQUALITIES IMPLICATIONS**

- 9.1 There are no equalities implications in this report.

## **10 CONSULTATION**

- 10.1 The draft accounts have been published, and local electors have been able to exercise their rights to ask questions of the auditor in respect of them, and to inspect accounting records.

## **11 ENVIRONMENTAL IMPLICATIONS**

- 11.1 There are no environmental implications in this report.

## **12 CRIME AND DISORDER IMPLICATIONS**

12.1 There are no crime and disorder implications arising from this report.

## **13 BACKGROUND PAPERS**

Draft audited 2013/14 Statement of Accounts

### **Appendices**

1. Annual Governance Statement
2. Grant Thornton – The Audit Findings for the London Borough of Lewisham.
3. Grant Thornton – The Audit Findings for the Lewisham Pension Fund.
4. Letter of Representation – Main Accounts and Pension Fund Accounts
5. Grant Thornton – Report on Value for Money for the London Borough of Lewisham.

### **For further information on this report please contact:**

Selwyn Thompson, Head of Financial Services

## Annual Governance Statement 2013/14

### 1. What is corporate governance?

Corporate governance is about making sure the Council is run properly. It is about ensuring the Council does the right things, at the right time and in the right way.

The Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards; and for having a governance framework that comprises of the culture, values, systems and processes by which this is achieved. It must make sure that public money is safeguarded, properly accounted for and used economically, efficiently and effectively to meet its strategic objectives. It also has a duty, through the establishment of internal control measures, to manage risk to a reasonable level by identifying, prioritising, evaluating and managing the risks to the achievement of its policies, aims and objectives. Finally, it has a duty to secure continuous improvement in the way in which its functions are exercised.

The Council has approved and adopted a Local Code of Corporate Governance, which is consistent with the principles of the CIPFA (the Chartered Institute of Public Finance and Accountancy) and SOLACE (the Society of Local Authority Chief Executives and Senior Managers) Framework *Delivering Good Governance in Local Government*. This statement explains how the authority has complied with the code and also how it meets the requirements of the *Accounts and Audit (England) Regulations 2011* in relation to the publication of a statement on internal control.

### 2. How has this statement been prepared?

Every year a review of the effectiveness of the Council's governance framework is conducted by the Annual Governance Statement working party which comprises of a team of policy, legal and audit officers with expertise in governance and internal control matters. The group meets quarterly to collate and evaluate governance evidence and identify areas requiring action; and is responsible for analysing CIPFA/SOLACE guidance in relation to the development of this statement and ensuring that the statement is approved via the council's key control mechanisms. The governance review process includes:

- The consideration of the Annual Governance Statement Action Plan by the Council's Internal Control Board (ICB) on a quarterly basis. This year no significant gaps or governance issues have been identified and the actions outlined at the end of this statement summarise the areas of governance focus needed to maintain an effective governance framework.
- **24 June 2014:** The consideration of the Accounts, the Head of Audit and Risk's Annual Report and the Annual Governance Statement by the Council's Audit Panel.
- **23 July 2014:** A review of the Council's Local Code of Corporate Governance by the Standards Committee, with reference to CIPFA/Solace Guidance.
- **September 2014:** Referral of the Annual Governance Statement to full Council with the Statement of Accounts.
- Sign off by the Chair of the Council and Chief Executive, once approved.

### 3. What are the Council's governance arrangements?

The Council's governance arrangements aim to foster effective leadership and high standards of behaviour; a culture based on openness and honesty; and an external focus on the needs of service users and the public. The diagram overleaf shows the Council's external facing governance structure, as set out in the Council's [constitution](#):

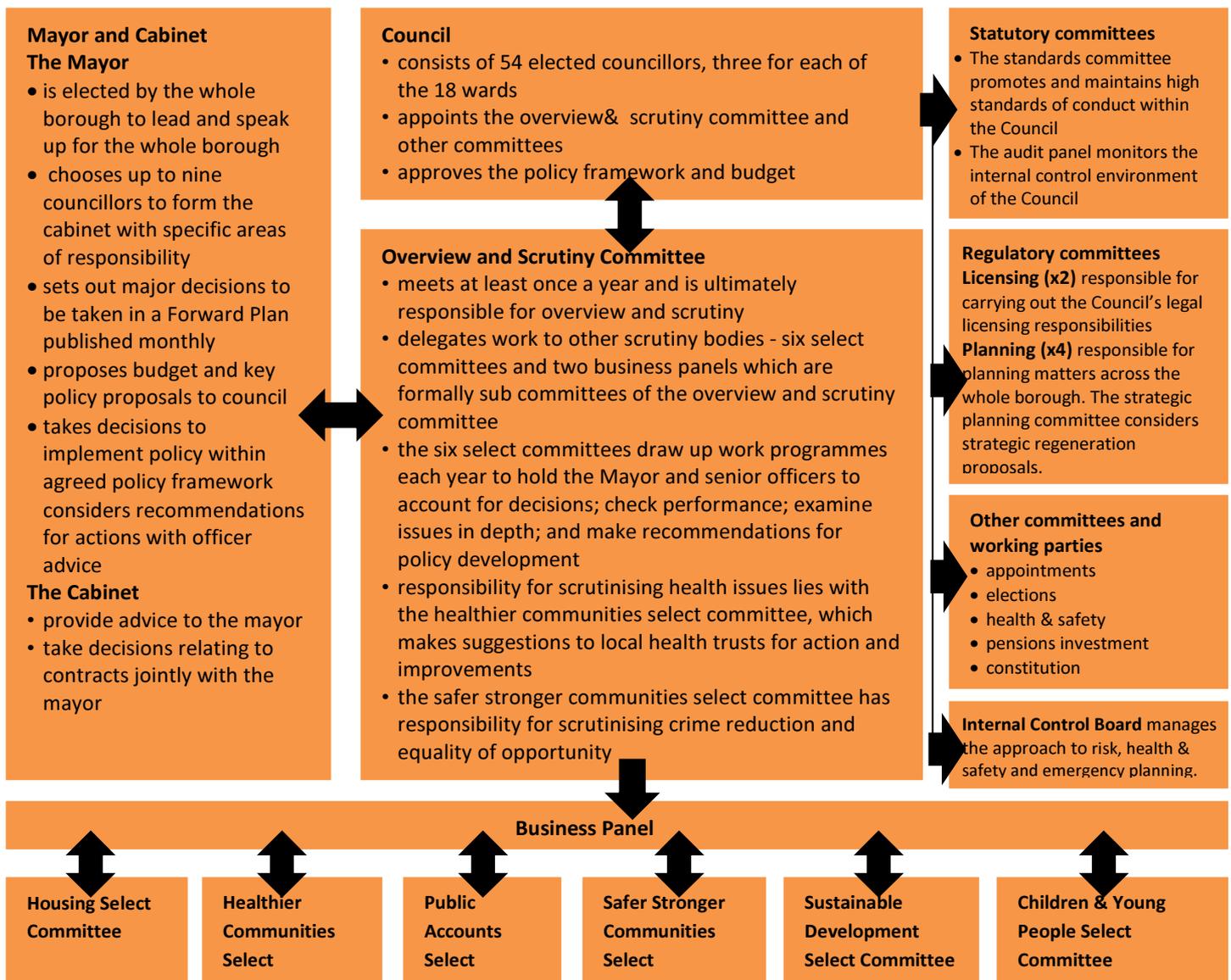


Diagram 1

Lewisham’s directly elected Mayor provides the Council with clear strategic direction and effective leadership but the Council also benefits from the perspectives and contributions of its 54 Councillors. The Council’s constitution clearly defines the roles of councillors and officers, and this clarity contributes to effective working relationships across the Council. The Constitution Working Party, the Standards Committee and the Audit Panel monitor and challenge the governance arrangements and ensure their robustness.

The Council has worked closely with its partners, both strategic and operational, throughout the year, primarily through the Lewisham Strategic Partnership (LSP). New arrangements for strategic partnership working are currently being developed. The Council has two statutory partnership boards: the Safer Lewisham Partnership which works to protect the community from crime and help people feel safer; and the Health and Wellbeing Board which works to identify local health challenges and lead on the activity necessary to address them.

**(a) Communicating and reviewing the Council’s vision**

The Council has an overarching vision for the borough: **‘Together we will make Lewisham the best place in London to live, work and learn’** which is shared by its key partners and which was developed following extensive consultation with the community. The Sustainable Community Strategy (SCS) outlines how all partners will work towards the vision by contributing to six key

priorities. The Council, in turn, has developed ten corporate priorities which articulate its contribution.

### **(b) Delivering Quality Services**

The Council seeks to use its resources efficiently and effectively to provide quality services which help deliver its vision for the borough. In the 2012/13 [Annual Audit Letter](#) Grant Thornton, the Council's external auditors, commented that "the Council is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity". The Council is currently considering how to fundamentally reshape and transform the services it delivers to save money and provide better value for money. The *Lewisham Future Programme* has been established to spearhead work into how the Council can do this and a number of thematic and cross-cutting reviews are being carried out. This work is underpinned by four core values: (1) we put service to the public first; (2) we respect all people and all communities; (3) we invest in employees; and (4) we are open, honest and fair in all we do.

The Council's performance is monitored via a monthly management report which tracks 58 performance indicators, grouped according to the Council's ten corporate priorities, and associated risks. The report uses Red exception reporting to focus attention on areas of poor performance or high risk and is a critical tool for supporting decisions across the organisation. The report is seen by the Executive Management Team (EMT) monthly and the Public Accounts Select Committee and Mayor & Cabinet quarterly and is published on the Council website. The quality of services for users is also measured through satisfaction surveys and information from the complaints management and resolution process.

### **(c) Roles and responsibilities**

The Council's constitution sets out the roles and responsibilities of the Mayor, the Chair of Council, the Council as a whole, the Executive, Statutory Officers, Overview and Scrutiny committees, Standards committees and other committees to help ensure that all decision making activity is lawful and transparent. Decisions are taken and scrutinised in accordance with the Council and Mayoral scheme of delegation, the procedure rules set out in the constitution and on the basis of professional officer advice, as part of an annual programme of regular meetings.

### **(d) Embedding Roles and Responsibilities**

The Local Code of Corporate Governance and the Codes of Conduct for Members and Officers, set out in the constitution, demand the highest standards of ethical behaviour. These are reviewed regularly and are communicated widely. The Standards Committee received its annual report on Member compliance with the Code of Conduct in November 2013 and considered that there had been good compliance. Following the elections in May 2014, training on the Member Code of Conduct was delivered to all Councillors in June 2014, as part of a comprehensive induction programme to enable them to understand and access all appropriate support and development to undertake their role.

### **(e) Decision making**

The constitution requires councillors to follow formal procedures when taking decisions, which includes declaring if they have a personal interest in the matters under discussion and, if required, withdrawing from the room whilst the decision is taken. Reports are produced in a standard format to ensure that report authors address all significant considerations such as the legal and financial

implications of decisions and equalities issues; and the minutes of every formal meeting are published on the Council website. The constitution requires Executive decisions to be published within two working days of being taken and they may be called-in (referred to the Mayor for reconsideration) by the Overview and Scrutiny Business Panel. Five matters were called-in during 2013/14 including a number of savings proposals. The Council has a Constitution Working Party (CWP) to advise it on the operation of its constitutional arrangements but in practice, the procedure rules set out in the constitution are under constant review to reflect changing needs.

#### **(f) Managing risks**

The Council has a robust risk strategy and framework which is reviewed annually (see diagram 2). The management of risk is handled at a corporate and directorate level and is overseen by ICB which is chaired by an independent 'non-executive' person (the chair). The system of internal control is designed to manage risk to a reasonable level by identifying and prioritising any risks to the achievement of the Council's policies, aims and objectives. It evaluates the likelihood of risks being realised and the impact should they be realised, and seeks to manage them efficiently, effectively and economically. The Council's risk management policy and strategy was last updated in February 2014.

#### **(g) Audit**

##### ***Internal Audit***

The role of internal audit is to provide an independent and objective opinion on the internal control environment within the Council. Its work is set out in an annual internal audit plan that covers the activities where internal audit and management perceive there are risks to achieving objectives. A number of audits take place each year to analyse relevant controls and following each audit an assurance statement indicating the level of assurance that management can place on the adequacy and effectiveness of the internal controls is produced. In 2013/14 73 assurance reviews were commissioned (with 70 requiring an opinion on internal control and the others being advisory reviews). Of the 70 requiring an opinion on internal control, 58 have been completed and only 3 received a negative level of assurance, including 1 'no assurance' opinion. Action is being taken to address the inadequacies identified and the activity is being monitored by Audit Panel and ICB.

##### ***External Audit***

The Council's governance, risk and control management arrangements are subject to an annual independent review by Grant Thornton, the Council's external auditors. The last review took place in October 2013 and it was noted that "The Council has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future".

##### ***Audit Panel***

The Council's Audit Panel meets quarterly and is made up of a mixture of Councillors and independent advisors. The key roles of the Panel are to:

- Review and comment on the strategy, plans and resources of Internal Audit. Internal Audit update reports, summarising the audit reports issued, management's progress on implementing any recommendations and the performance of the Internal Audit function, are received by the Panel on a quarterly basis.
- Consider and monitor the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
- Consider the external auditor's annual plan and other relevant external reports which contribute to the level of assurance.

- Consider the Council’s annual Statement of Accounts and this statement and make comments to Full Council when it considers the accounts.

**Risk Strategy and Framework**

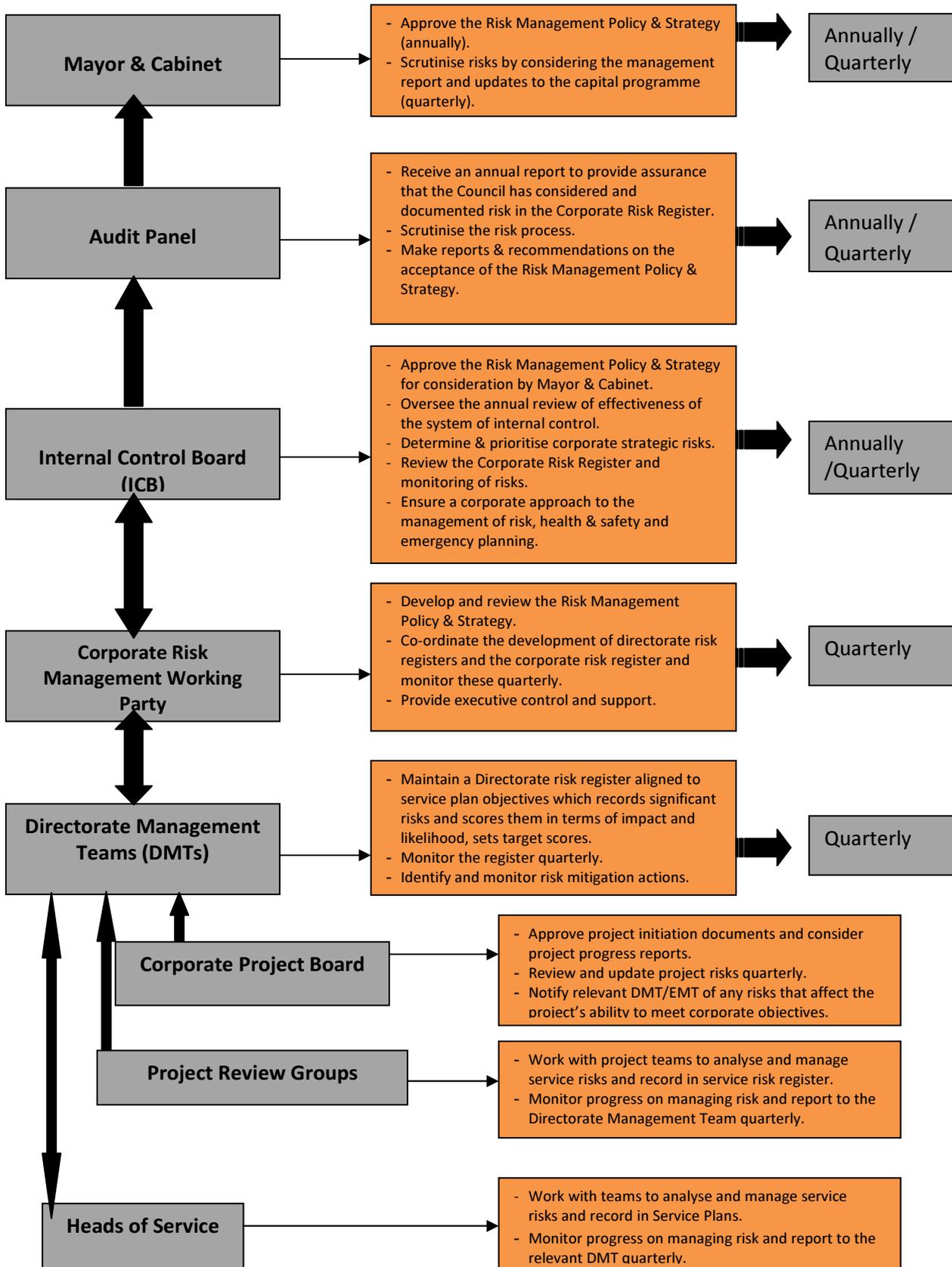


Diagram 2

## **(h) Compliance**

The Monitoring Officer is central to ensuring compliance with the rules and procedures set out in the constitution. The Monitoring Officer attends Mayor and Cabinet and Full Council meetings and regularly briefs EMT, councillors and relevant staff on corporate legislative developments; and legal advice is incorporated in every council report. Where gaps or non-compliance are identified, appropriate action is taken.

The financial management of the authority is conducted in accordance with financial regulations set out in the constitution and the Council has designated the Executive Director of Resources and Regeneration as its Chief Finance Officer, who advises on the proper administration of the Council's financial affairs, keeping proper financial records and maintaining effective systems of financial control.

The Council has a whistle-blowing policy in place which is publicised on the Council's website. Complaints made under this policy are handled by the Monitoring Officer and an annual review is considered by the Standards Committee.

## **(i) Training and development**

The Council runs a Member Development Programme, focussed on the period following local elections, which ensures that all Councillors have access to the training and development opportunities they need to fulfil their responsibilities to the local community and provide clear leadership and effective scrutiny of local Council functions. The development needs of senior officers are the responsibility of the Head of Personnel and Development and the Monitoring Officer ensures that they are aware of their statutory duties and any changes in relevant legislation. At the start of the financial year the Chief Executive defines objectives for each of the Executive Directors which are then cascaded to officers throughout the organisation through the Performance Evaluation Scheme.

## **(g) Engaging the community and partners**

The Council's engagement activity is overseen by the Strategy Performance and Communications Board which operates at Executive Director level and provides a strategic steer on the communication and consultation agendas within the Council. It is supported by the Consultation Steering Group, which has representation from across the Council and supports effective resident engagement at an operational level. The Council promotes e-Participation through its online engagement system which provides a platform through which citizens can respond to online consultations as well as set up and respond to e-Petitions. Ward-level Local Assemblies are an opportunity for residents to work with their ward councillors to shape the future of their neighbourhood; and the Young Citizens Panel gives young people aged 11 – 18 the chance to feed into council policy and spending decisions, including the use of the Young Mayor's budget. The Council website includes a page on open data and transparency, which gives information on spending; wages of senior managers; Freedom of Information requests; the annual audit of accounts; the pay policy; and Council decisions. The arrangements for strategic partnership working are set out earlier in this statement.

## **4. How do we know our arrangements are working?**

Throughout the year, the Council regularly reviews the effectiveness of its governance framework, including its system of internal control. Activity undertaken includes:

- Consideration of governance issues by the ICB – including risk registers, counter-fraud updates and internal audit reports.

- Preparation of a rolling plan of audit coverage to be achieved in the forthcoming year by the Head of Audit and Risk, primarily based on an assessment of the Council's risk profile, and review of the plan by ICB.
- Receipt of the Internal Audit Strategy by the Audit Panel and approval of the annual audit plan.
- Preparation of the annual assurance report by the Head of Audit & Risk, setting out his opinion on the Council's overall control environment and approval of the report by the Audit Panel.
- Twice yearly updates to the Public Accounts Select Committee on the work of the Audit Panel.
- Consideration by EMT of a full range of governance issues throughout the year, including issues relating to the improvement of the Internal Audit Service and scrutiny of performance and risk (ensuring management action is taken where necessary).
- Consideration of the following reports by the Standards Committee:
  - Council's annual complaints report and Whistle Blowing Policy (November 2013).
  - Compliance with the Member Code of Conduct (November 2013).
  - Review of the Council's Code of Corporate Governance (July 2014).
- Consideration of external audit reports by Mayor and Cabinet, Audit Panel and relevant Select Committees.

No governance concerns were raised by the Council's external auditors in the 2012/13 Annual Audit letter.

**What are our governance priorities going forward?**

Our priorities include:

- Legislative changes, such as going live with Individual Electoral Registration.
- Partnership Working, including embedding new strategic partnership working arrangements.
- Procurement changes, such as compliance with new regulations on transparency.

**Signature**

# The Audit Findings for the London Borough of Lewisham

Year ended 31 March 2014

September 2014

**Darren Wells**

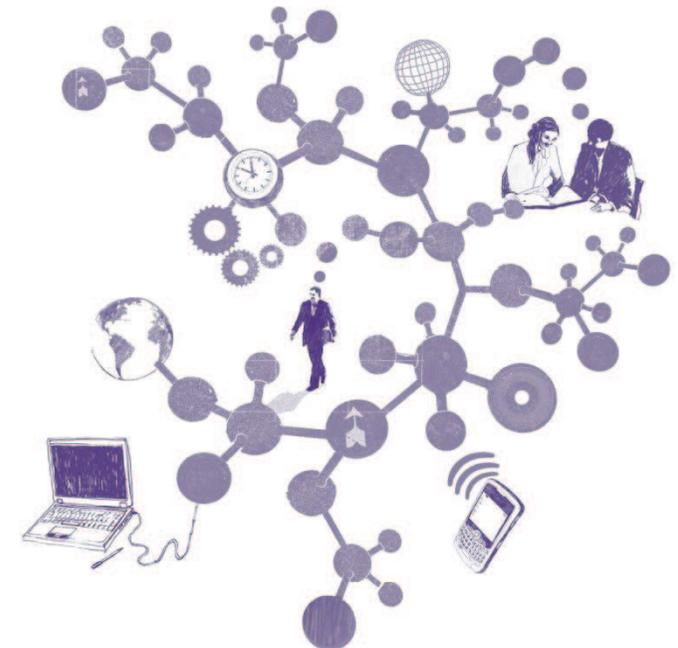
Director  
T 01293 554 130  
E darren.j.wells@uk.gt.com

**Jamie Bewick**

Senior Manager  
M 07880 456144  
E jamie.n.bewick@uk.gt.com

**Stephen Richards**

Executive  
T 0207 7728 3340  
E stephen.j.richards@uk.gt.com



The contents of this report relate only to those matters which came to our attention during the conduct of our normal audit procedures which are designed primarily for the purpose of expressing our opinion on the financial statements. Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we will report these to you. In consequence, our work cannot be relied upon to disclose defalcations or other irregularities, or to include all possible improvements in internal control that a more extensive special examination might identify.

We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

# Contents

<b>Section</b>	<b>Page</b>
1. Executive summary	4-6
2. Audit findings	7-23
3. Value for Money	24-27
4. Fees, non audit services and independence	28-29
5. Communication of audit matters	30-31

## Appendices

- A Action plan
- B Audit opinion

Page 176

## Section 1: Executive summary

01. Executive summary

02. Audit findings

03. Value for Money

04. Fees, non audit services and independence

05. Communication of audit matters

# Executive summary

## Purpose of this report

This report highlights the key matters arising from our audit of the London Borough of Lewisham's ('the Council's') financial statements for the year ended 31 March 2013. It is also used to report our audit findings to officers and the Council's Audit Panel (as those charged with governance) in accordance with the requirements of International Standard on Auditing 260 (ISA).

Under the Audit Commission's Code of Audit Practice we are required to report whether, in our opinion, the Council's financial statements present a true and fair view of the financial position, its expenditure and income for the year and whether they have been properly prepared in accordance with the CIPFA Code of Practice on Local Authority Accounting. We are also required to reach a formal conclusion on whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources (the Value for Money conclusion).

## Introduction

In the conduct of our audit we have not had to alter or change our planned audit approach, which we communicated to you in our Audit Plan in June 2014.

Our audit is mostly complete although we are finalising our work in the following areas:

- sample testing of operating revenue expenditure and income
- supplementary queries arising from our review and quality assurance processes
- completion of testing of welfare benefits
- review of employee remuneration disclosure notes and pensions disclosures
- reviews of operating and finance leases

- obtaining and reviewing the final management letter of representation
- review of final version of the Annual Governance Statement and
- updating our post balance sheet events review, to the date of signing the opinion
- Whole of Government Accounts

We received draft financial statements and accompanying working papers at the start of our audit, in accordance with the agreed timetable.

## Key issues arising from our audit

### Financial statements opinion

We anticipate providing an unqualified opinion on the financial statements.

We did not identify any adjustments affecting the Council's reported financial position.

We identified a number of issues with the Council's arrangements for accounting for property, plant and equipment transactions and valuations. This has led to some material adjustments in your financial statements, which are detailed in this report. We also identified some classification errors and some adjustments to improve the presentation of the financial statements.

We recognise that this year has been one of significant change in the finance department, including a staff restructuring programme and a major upgrade to the financial ledger. We are committed to working closely with the finance team through this transitional period and to using the learning from this audit process to promote improvements for 2014/15. Further details are set out in section 2 of this report.

### Value for Money conclusion

Based on our review of the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources, we propose to give an unqualified VfM conclusion.

Further detail of our work on Value for Money is set out in section 3 of this report.

### Whole of Government Accounts (WGA)

We will complete our work in respect of the Whole of Government Accounts in accordance with the national timetable. The work is planned for September 2014 and the audit certificate will be issued after we have audited the WGA consolidation pack.

### Controls

The Council's management is responsible for the identification, assessment, management and monitoring of risk, and for developing, operating and monitoring the system of internal control.

Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we report these to the Council.

We draw your attention in particular to the following issues identified in relation to controls:

- During 2013/14 the Council has not been carrying out regular reconciliations between the payroll system and the general ledger.
- The Council did not produce a full audit trail to support its bank reconciliations.

Further details are provided within section 2 of this report.

### The way forward

Matters arising from the financial statements audit and review of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources have been discussed with the Executive Director for Resources and Regeneration.

We have made a number of recommendations, which are set out in the action plan in Appendix A. Recommendations have been discussed and agreed with the Executive Director for Resources and Regeneration and the finance team.

### Acknowledgment

We would like to take this opportunity to record our appreciation for the assistance provided by the finance team and other staff during our audit.

Grant Thornton UK LLP  
September 2014

## Section 2: Audit findings

Page 180

- 01. Executive summary
- 02. Audit findings**
- 03. Value for Money
- 04. Fees, non audit services and independence
- 05. Communication of audit matters

# Audit findings

In this section we present our findings in respect of matters and risks identified at the planning stage of the audit and additional matters that arose during the course of our work. We set out on the following pages the work we have performed and findings arising from our work in respect of the audit risks we identified in our audit plan, presented to the Audit Panel on 24 June 2014. We also set out the adjustments to the financial statements arising from our audit work and our findings in respect of internal controls.

## Changes to Audit Plan

We have not made any changes to our Audit Plan as previously communicated to you.

## Audit opinion

We anticipate that we will provide the Council with an unqualified opinion as set out in Appendix B.

## Audit findings against significant risks

"Significant risks often relate to significant non-routine transactions and judgmental matters. Non-routine transactions are transactions that are unusual, either due to size or nature, and that therefore occur infrequently. Judgmental matters may include the development of accounting estimates for which there is significant measurement uncertainty" (ISA 315).

In this section we detail our response to the significant risks of material misstatement which we identified in the Audit Plan. As noted in our plan, there are two presumed significant risks which are applicable to all audits under auditing standards.

	Risks identified in our audit plan	Work completed	Assurance gained and issues arising
1.	<b>Improper revenue recognition</b> Under ISA 240 there is a presumed risk that revenue may be misstated due to improper recognition	<ul style="list-style-type: none"> <li>• review and testing of revenue recognition policies</li> <li>• testing of material revenue streams</li> <li>• review of unusual significant transactions</li> </ul>	Our audit work has not identified any issues in respect of revenue recognition.
2.	<b>Management override of controls</b> Under ISA 240 there is a presumed risk of management over-ride of controls	<ul style="list-style-type: none"> <li>• review of accounting estimates, judgements and decisions made by management</li> <li>• testing of journal entries</li> <li>• review of unusual significant transactions]</li> </ul>	Our audit work has not identified any evidence of management override of controls. In particular the findings of our review of journal controls and testing of journal entries has not identified any significant issues.  We set out later in this section of the report our work and findings on key accounting estimates and judgments.
3.	<b>Property, plant &amp; equipment</b> Revaluation measurement not correct	<ul style="list-style-type: none"> <li>• We have confirmed our understanding of the system for accounting for PPE valuations.</li> <li>• We wrote to the District Valuer to establish the scope and basis of valuations work for 2013/14</li> <li>• We reviewed the valuations information in your financial statements to establish whether they have been accounted for correctly.</li> <li>• We considered the reasonableness of your valuations information by reference to valuation trend data provided by the auditor's expert.</li> </ul>	The District Valuer provided a reasonable valuation of the Council's PPE as at 1 <sup>st</sup> April 2013 however we noted the following issues PPE being misstated on the balance sheet. <ul style="list-style-type: none"> <li>- The valuation was dated as at 1<sup>st</sup> April and did not take into account the significant increases in London property values over the year. The subsequent amendment was £161 million.</li> <li>- Some valuation information was not available until a very late stage, which led to omissions (net) of £3.4 million and a valuation error of £18.8 million in the draft accounts.</li> </ul> We also noted a number of errors in disclosure notes which are listed later in this report. The Council agreed to amend the accounts in respect of all these issues.

## Audit findings against other risks

In this section we detail our response to the other risks of material misstatement which we identified in the Audit Plan. Recommendations, together with management responses, are attached at Appendix A.

Transaction cycle	Description of risk	Work completed	Assurance gained & issues arising
<b>Operating expenses</b>	Creditors understated or not recorded in the correct period	<ul style="list-style-type: none"> <li>We reviewed and tested the year end creditors control account reconciliation.</li> <li>We tested a sample of transactions at the year end to confirm they are accounted for in the correct period</li> <li>We reviewed your accruals policy to confirm that it has been properly applied.</li> </ul>	Our work in this area is on-going. We will provide an update to members at the meeting of the Audit Panel on 11 September 2014.
<b>Employee remuneration</b>	Employee remuneration accrual understated	<ul style="list-style-type: none"> <li>We reviewed and test the year end payroll reconciliations</li> <li>We reviewed and tested your year end payroll accruals</li> </ul>	Our work found employee remuneration to be materially complete. We noted some issues with the process of payroll reconciliations which are described in the "internal controls" section.
<b>Welfare expenditure</b>	Welfare benefit expenditure improperly computed	<ul style="list-style-type: none"> <li>Our work to certify your Housing and Council Tax benefits claim should give us adequate assurance over the accuracy of your financial statements.</li> <li>We reviewed the reconciliation between your financial statements and the Housing and Council Tax benefits claim.</li> </ul>	Our work in the housing and council tax benefits claim is on-going.
<b>Housing Rent Revenue Account</b>	Revenue transactions not recorded	<ul style="list-style-type: none"> <li>We reviewed and tested your year end reconciliations of housing rents.</li> <li>We carried out predictive analytical review to confirm rental income is in line with expectations</li> </ul>	We did not identify any significant matters against the risk identified
<b>Property, plant &amp; equipment</b>	PPE activity not valid	<ul style="list-style-type: none"> <li>We tested a sample of PPE additions to establish whether they have been appropriately accounted for in line with IAS16.</li> </ul>	We identified two errors in in Assets Under Construction, totalling £3.8 million. These are detailed under "adjusted misstatements. The amount is not material to our opinion and we found PPE activity to be otherwise valid. .

# Accounting policies, estimates & judgements

In this section we report on our consideration of accounting policies, in particular revenue recognition policies, and key estimates and judgements made and included with the Council's financial statements.

Accounting area	Summary of policy	Comments	Assessment
<b>Accounting policy - Revenue recognition</b>	Income from the provision of services or sale of goods is recognised when it is probable that the economic benefits or service potential associated with the transaction will be received by the Council.	The Council has adopted standard revenue recognition policies as set out in the Code of Audit Practice. We did not note any issues with the Council's revenue recognition policies or with their application.	● <b>Green</b>
<b>Other accounting policies</b>	We have reviewed the Council's policies against the requirements of the CIPFA Code and accounting standards.	Our review of accounting policies has not highlighted any issues which we wish to bring to your attention	● <b>Green</b>
<b>Judgements and estimates – depreciation</b>	Depreciation is charged by applying the straight-line method based on the asset's useful life.	The Council has an appropriate policy for depreciation. We have reviewed the Council's estimate of depreciation and found it to be fairly stated.	● <b>Green</b>

## Assessment

- Marginal accounting policy which could potentially attract attention from regulators
- Accounting policy appropriate and disclosures sufficient

- Accounting policy appropriate but scope for improved disclosure

# Accounting policies, estimates & judgements

Accounting area	Summary of policy	Comments	Assessment
<p><b>Judgements and estimates</b> Property plant and equipment valuations</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 185</p>	<p>The Council has a rolling programme of revaluations. Note 9a to your accounts shows that over 82 per cent of all your PPE was valued in 2013/14, including all council dwellings. This is a reasonable approach.</p>	<p>The Council no longer has its own in-house valuations expertise. For 2013/14 the Council engaged the District Valuer to carry out its valuations programme.</p> <p>We noted a number of issues with the process of obtaining valuations.</p> <ul style="list-style-type: none"> <li>•Some valuation information was provided late by the District Valuer, right up to the date of producing the draft financial statements. This contributed to a number of errors in accounting for valuations.</li> <li>•There was an error of £18.8 million in one valuation, which arose because of late information provided by the District Valuer.</li> </ul> <p>There were also issues with the accounting for revaluations leading to a number of material errors in note 9b. Errors have been made in this note in previous years.</p> <p>The Council's valuations were undertaken as at 1<sup>st</sup> April 2013. Over 2013/14 there was a significant increase in property values, meaning that this valuation was likely to be materially out of date by 31<sup>st</sup> March 2014. The Council agreed to uplift its property value by an appropriate index of 20 per cent, as advised by the DV, to reflect movements in house values over the year. This has led to an amendment of £161 million on the balance sheet .</p> <p>In order to address the timing issue between the valuation date and the accounting date, the Council proposes to obtain its valuations as at 1<sup>st</sup> February in future years, to minimise the likelihood of material valuation movements arising.</p> <p>The Council agreed to amend the accounts for these issues.</p>	<p style="text-align: center;">● <b>Red</b></p>

**Assessment**

- Marginal accounting policy which could potentially attract attention from regulators
- Accounting policy appropriate but scope for improved disclosure
- Accounting policy appropriate and disclosures sufficient

# Accounting policies, estimates & judgements

In this section we report on our consideration of accounting policies, in particular revenue recognition policies, and key estimates and judgements made and included with the Council's financial statements.

Accounting area	Summary of policy	Comments	Assessment
<p><b>Judgements and estimates – PFI liabilities</b></p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 186</p>	<p>The Council has developed and maintained PFI models to calculate the values of its PFI assets and liabilities on the balance sheet</p>	<p>We engaged a Grant Thornton PFI expert to review the figures in your accounts to the values that would be expected using the assumptions in the Council's models.</p> <p>On several of the schemes we noted some differences between our calculated figures and the figures in the accounts. These are not material either individually or in aggregate and may be due to timing differences. Officers have agreed to investigate these differences in 2014/15.</p> <p>Our analysis identified one significant difference of £12 million on the Drumbeat school PFI scheme. Officers investigated this and confirmed the accounts were incorrect and they have agreed to correct.</p>	<p style="text-align: center;">● <b>Amber</b></p>
<p><b>Judgements and estimates – bad debt provision</b></p>	<p>Where it is likely that debts may not be settled, a charge is made to revenue for the income that might not be collected and the debtor is impaired.</p>	<p>In our 2012/13 audit we noted that the provision for bad debts in council tax may be overstated, as the Council has provided for more than the historic level of actual bad debts. In 2013/14 the Council has made a provision which is up to £7 million more than the actual rate of collection would indicate is required. The Council's view is that the approach is prudent and consistent with previous years. We raise this point for information.</p>	<p style="text-align: center;">● <b>Amber</b></p>
<p><b>Judgements and estimates – accruals and provisions</b></p>		<p>The Council's policy is reasonable. Our work in this area is on-going</p>	

**Assessment**

- Marginal accounting policy which could potentially attract attention from regulators
- Accounting policy appropriate but scope for improved disclosure
- Accounting policy appropriate and disclosures sufficient

## Adjusted misstatements

Our audit identified a number of adjustments to draft financial statements. We are required to report all significant misstatements and whether or not the financial statements have been adjusted by management. The table below summarises the adjustments arising from the audit of the financial statements which management has agreed to amend for.

### Impact of adjusted misstatements

All significant misstatements are set out below along with the impact on the key statements and the reported financial position.

Detail	Comprehensive Income and Expenditure Account £'000	Balance Sheet £'000	Impact on surplus / (deficit) £000
<p>1 Expenditure on a decant programme had previously been brought forward and classified as an asset under construction which remained within assets under construction at 31 March 2014.. The expenditure was not a valid asset and so was removed. Dr I&amp;E – Impairment £1063k Cr PPE – Assets under construction £1063k</p> <p>This amount will subsequently be reversed via the movement in reserves statement to the capital adjustment account.</p>	1063	(1063)	(1063)
<p>2 Schemes brought forward from the prior period which remained within assets under construction at 31 March 2014 but should have been written out when the asset was brought into use. Dr I&amp;E – Impairment £1694k Cr PPE – Assets under construction £1694k</p> <p>This amount will subsequently be reversed via the movement in reserves statement to the capital adjustment account.</p>	1694	(1694)	(1694)

## Adjusted misstatements (2)

Detail	Comprehensive Income and Expenditure Account £'000	Balance Sheet £'000	Impact on surplus / (deficit) £000
<p>3 Drumbeat school was recognised as an asset on 31 March 2013 by the Council. However the PFI liability was omitted from the Councils PFI model for Building Schools for the Future resulting in the liability being understated and so an amendment was required.</p> <p>Dr Capital adjustment account £11049k Dr revaluation reserve £1165k Cr PFI borrowings £12214k</p>	Nil	12214 (12214)	Nil
<p>Expenditure during the year on primary places which remained within assets under construction at 31 March 2014 but should have been written out when the asset was brought into use.</p> <p>Dr I&amp;E – Impairment Cr PPE – Assets under construction</p> <p>This amount will subsequently be reversed via the movement in reserves statement to the capital adjustment account.</p>	5881	(5881)	(5881)
<p>5 The Council's valuations were undertaken as at 1<sup>st</sup> April 2013. Over 2013/14 there was a significant increase in Property values, meaning that this valuation was likely to be materially out of date by 31<sup>st</sup> March 2014.</p> <p>Dr PPE – Dwellings £162697k Cr Revaluation reserve £110172k Cr I&amp;E – Reversal of impairment £52525k</p> <p>This amount of £52525k will subsequently be reversed via the movement in reserves statement to the capital adjustment account</p>	(52525)	162697 (110172)	52525

Page 188

## Adjusted misstatements (3)

Detail		Comprehensive Income and Expenditure Account £'000	Balance Sheet £'000	Impact on surplus / (deficit) £000
6	A late amendment to a valuation of a school was not accounted for by the Council. Dr PPE – other land and buildings Cr Revaluation reserve	Nil	18797 (18797)	Nil
7	The late receipt of valuations led to a number of property valuations not being accounted for by the Council. Dr PPE – Surplus assets £3100 Dr revaluation reserve £2200 Dr I&E impairment £2200 Cr PPE – Dwellings £3700 Cr PPE – Other land and buildings £3800 This amount of £2200k will subsequently be reversed via the movement in reserves statement to the capital adjustment account	2200	3100 2200 (3700) (3800)	(2200)
8	The draft accounts disclosed a value for PPE which was less than the amount of assets disclosed within the Council's asset register. This was investigated and identified the accounts required amendment. Dr PPE – Surplus assets £1600 Cr revaluation reserve £300 Cr I&E – Impairments £1300 This amount of £1300k will subsequently be reversed via the movement in reserves statement to the capital adjustment account	(1300)	1600 (300)	1300
9	Two deposits have been incorrectly classified as cash equivalents when they are actually short term investments. Dr Investments – current assets Cr Cash equivalents – current assets	Nil	45000 (45000)	Nil
<b>Overall impact</b>		<b>£(42987)</b>	<b>£42987</b>	<b>£42987</b>

## Misclassifications & disclosure changes

The table below provides details of misclassification and disclosure changes identified during the audit which have been made in the final set of financial statements.

Adjustment type	Value £'000	Account balance	Impact on the financial statements
1 Misclassification	78,619	Revaluations - Council dwellings (note 9b)	Misclassification of revaluation transactions within note 9b for the movements due to revaluations
2 Misclassification	83,324	Revaluations – other land and buildings (note 9b)	Misclassification of revaluation transactions within note 9b for the movements due to revaluations
Misclassification	1,848	Impairments – other land and buildings (note 9b)	Misclassification of Impairment transactions within note 9b for the movements due to revaluations
4 Misclassification	10,947	Impairments – surplus assets (note 9 b)	Misclassification of Impairment transactions within note 9b for the movements due to revaluations
5 Misclassification	2,424	Impairments – Council dwellings (note 9b)	Misclassification of Impairment transactions within note 9b for the movements due to revaluations
6 Misclassification	24,064	Notional income - donated asset (Glass Mill)	The Council included this donation as Income within cost of services. However the Code requires this to be shown as income from recognised grants and contributions.
7 Disclosure	9,978	Movement in reserves statement 2013/14	The draft financial statements had an Inconsistency in the movement in reserves statement on the other comprehensive income and expenditure line of the statement.

Page 190

## Misclassifications & disclosure changes (2)

The table below provides details of misclassification and disclosure changes identified during the audit which have been made in the final set of financial statements.

Adjustment type	Value £'000	Account balance	Impact on the financial statements
8 Disclosure	5,766	Movement in reserves prior year 2012/13	The draft financial statements had an Inconsistency in the movement in reserves statement for 12/13. This was due to restatements made by the Council for IAS19 which were not subsequently amended for within the movement in reserves statement.
9 Disclosure	14,862	Note 14 overdrawn balances and total.	The draft disclosure did not cast and did not equal the balance sheet disclosure.
10 Disclosure	1,254	Note 35c – Movement in PFI assets in year	The disclosure was found to be inconsistent with the asset register requiring amendment.
11 Disclosure	2,606	Note 30 - Housing benefit grant income	The Housing benefit grant income disclosed did not agree to the grant claim.
12 Misclassification	9,708	Cash flow statement – Cash flows from investing activities	The draft financial statements had an Inconsistency between the disclosure and amounts disclosed elsewhere within the financial statements.
13 Disclosure	6,573	HRA Note 3 - rebates	The disclosure included incorrect amounts for rent rebates paid and received by the Council.
14 Disclosure	various	Collection fund	Additional disclosure to provide information regarding the impact on the council tax base due to the Welfare Reform Act that abolished the system of council tax benefits and replaced it with the Council Tax Reduction Scheme with effect from 1 April 2013.
15 Disclosure	various	Accounting for schools	Additional disclosure regarding the accounting of schools in the 2014/15 Code.

## Misclassifications & disclosure changes (3)

The table below provides details of misclassification and disclosure changes identified during the audit which have been made in the final set of financial statements.

Adjustment type	Value £'000	Account balance	Impact on the financial statements
16 Disclosure	various	Cash flow statement	The Council omitted a disclosure note to analyse items for the line disclosed as the Adjustment for items included in the net surplus or deficit on the provision of services that are investing and financing activities.
17 Disclosure	various	Cash flow statement	The Council omitted a disclosure note to analyse items for the line disclosed as the Adjustment to surplus or deficit on the provision of services for non-cash movements.
18 Disclosure	17,102	Note 34b(ii) – operating leases	The Council identified an error in the disclosure resulting in a reduction in the total of £17.1 million

# Unadjusted misstatements

The table below provides details of adjustments identified which we request be processed but which have not been made within the final set of financial statements. The Audit Panel is required to approve management's proposed treatment of all items recorded within the table below:

Detail	Comprehensive Income and Expenditure Account £'000	Balance Sheet £'000	Reason for not adjusting
<b>Overall impact</b>	<b>£0</b>	<b>£0</b>	

Page 193

## Uncertainties

The table below provides details of uncertainties we identified during the course of our audit. The amounts are not material either individually or in aggregate. Management have agreed to investigate these in 2014/15.

Detail	Comprehensive Income and Expenditure Account £'000	Balance Sheet £'000	Reason for not adjusting
1 Difference between PFI models (BSF) and calculated values, arising because of timing differences on the start of the scheme		4,400	The net effect of PFI differences identified is immaterial. The Council has agreed to review these in 2014/15
2 Difference between PFI models (Brockley) and calculated values, possibly arising because of the valuation of the asset. The same scheme has a difference of £1,254 between the accounts and the supporting working papers		(2,194)	As above
3 Differences in other PFI schemes between the models and the calculated values		(1,407)	As above
<b>Overall impact</b>	<b>£0</b>	<b>£799</b>	

## Internal controls

The purpose of an audit is to express an opinion on the financial statements.

Our audit included consideration of internal controls relevant to the preparation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. The matters reported here are limited to those deficiencies that we have identified during the course of our audit and that we have concluded are of sufficient importance to merit being reported to you in accordance with auditing standards.

These and other recommendations, together with management responses, are included in the action plan attached at Appendix A.

	Assessment	Issue and risk	Recommendations
1.		<ul style="list-style-type: none"> <li>We found that while most aspects of payroll are reconciled monthly (eg tax deductions) there is no regular reconciliation in total, to confirm that payroll has been completely and accurately transferred from the payroll system to the ledger. There is no evidence, however, that this has led to any errors in the accounts.</li> </ul>	<ul style="list-style-type: none"> <li>Carry out and retain evidence of regular and timely reconciliations of the payroll interface with the ledger.</li> </ul>
2.		<ul style="list-style-type: none"> <li>Management were not initially able to provide a schedule demonstrating that all its bank accounts had been satisfactorily reconciled to the ledger. As a consequence this area took significantly longer to audit than in 2012/13, when the Council provided a full reconciliation. There is no evidence, however, that this has led to any errors in the accounts. Internal Audit have also raised concerns about bank reconciliations.</li> </ul>	<ul style="list-style-type: none"> <li>Provide a full reconciliation and audit trail for principal bank accounts as in 12/13.</li> </ul>
3.		<ul style="list-style-type: none"> <li>We identified discrepancies of £700k between the schools bank reconciliations and the Council's accounts. The Council was subsequently able to explain the difference and that the accounts figures were correct.</li> </ul>	<ul style="list-style-type: none"> <li>Verify schools bank reconciliations and ensure these agree to the financial statements.</li> </ul>

### Assessment

-  Significant deficiency – risk of significant misstatement
-  Deficiency – risk of inconsequential misstatement

## Other communication requirements

We set out below details of other matters which we are required by auditing standards to communicate to those charged with governance.

	Issue	Commentary
1.	<b>Matters in relation to fraud</b>	<ul style="list-style-type: none"> <li>We have previously discussed the risk of fraud with the Chair of the Audit Panel. We have not been made aware of any other incidents in the period and no other issues have been identified during the course of our audit</li> </ul>
2.	<b>Matters in relation to laws and regulations</b>	<ul style="list-style-type: none"> <li>We are not aware of any significant incidences of non-compliance with relevant laws and regulations.</li> </ul>
3.	<b>Written representations</b>	<ul style="list-style-type: none"> <li>A letter of representation has been requested from the Council.</li> <li>In particular, representations will be requested from officers in respect of the significant assumptions used in treating the Glass Mill centre as a donated asset.</li> </ul>
4.	<b>Disclosures</b>	<ul style="list-style-type: none"> <li>Our review found no material omissions in the financial statements</li> </ul>
5.	<b>Matters in relation to related parties</b>	<ul style="list-style-type: none"> <li>We are not aware of any related party transactions which have not been disclosed</li> </ul>
6.	<b>Going concern</b>	<ul style="list-style-type: none"> <li>Our work has not identified any reason to challenge the Council's decision to prepare the financial statements on a going concern basis.</li> </ul>
7.	<b>Subsidiary companies</b>	<ul style="list-style-type: none"> <li>As in the previous years, the Council has not produced consolidated group accounts, because the effect of doing so would be immaterial to the accounts overall. The Council has included a detailed narrative disclosure note of its interests in companies. We concur with the Council's treatment of this.</li> </ul>
8.	<b>De-cluttering</b>	<ul style="list-style-type: none"> <li>The Council has continued its continued to endeavour to make its accounts more concise and user-friendly, including reducing the length and format of the Annual Governance Statement. We are committed to continue to work with the Council in its efforts to de-clutter its accounts.</li> </ul>

## Section 3: Value for Money

01. Executive summary

02. Audit findings

**03. Value for Money**

04. Fees, non audit services and independence

05. Communication of audit matters

Page 197

# Value for Money

## Value for money conclusion

The Code of Audit Practice 2010 (the Code) describes the Council's responsibilities to put in place proper arrangements to:

- secure economy, efficiency and effectiveness in its use of resources;
- ensure proper stewardship and governance; and
- review regularly the adequacy and effectiveness of these arrangements.

We are required to give our VFM conclusion based on two criteria specified by the Audit Commission which support our reporting responsibilities under the Code. These criteria are:

**The Council has proper arrangements in place for securing financial resilience** - the Council has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.

**The Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness** - the Council is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.

## Key findings

### Securing financial resilience

We have considered the Council's arrangements to secure financial resilience against the following themes:

- Key financial performance indicators
- Financial governance
- Financial planning
- Financial control

Overall our work highlighted [\[enter short summary of Securing financial resilience findings\]](#).

### Challenging economy, efficiency and effectiveness

We have considered the Council's arrangements to challenge economy, efficiency and effectiveness against the following themes:

- Prioritising resources
- Improving efficiency & productivity

We have issued a separate report setting out our detailed findings in respect of the value for money conclusion.

### Overall VFM conclusion

Based on our review of the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources, we propose to give an unqualified VFM conclusion.

The value for money conclusion is still subject to a moderation process.

We set out below our detailed findings against six risk areas which have been used to assess the Council's performance against the Audit Commission's criteria. We summarise our assessment of each risk area using a red, amber or green (RAG) rating, based on the following definitions:

<b>Green</b>	Adequate arrangements
<b>Amber</b>	Adequate arrangements, with areas for development
<b>Red</b>	Inadequate arrangements

The table below and overleaf summarises our overall rating for each of the themes reviewed:

Theme	Summary findings	RAG rating
<b>Key indicators of performance</b>	The key indicators of financial performance for 2013/14 show the Council's performance to be similar to other London Boroughs.	<b>Green</b>
<b>Strategic financial planning</b>	The Council has developed a medium term financial plan aimed at maintaining a resilient financial position. The plan covers the period to 2018 and estimates that £95 million of annual savings will be required.	<b>Green</b>
<b>Financial governance</b>	Management and members demonstrate a sound understanding of the financial challenges facing the Council.	<b>Green</b>
<b>Financial control</b>	Overall the Council has adequate financial controls in place. However the savings needed to achieve a resilient financial position are very challenging. Although the Council has good arrangements for identifying efficiencies, the scale of the issue gives rise to a risk of this not being achieved in the time scale. The Council is projecting a Directorate level overspend of £10 million in 2014/15.	<b>Amber</b>
<b>Prioritising resources</b>	The Council has good arrangements in place for prioritising its resources. This has been demonstrated in the work of the Lewisham Futures Board and in the Council's active engagement with NHS partners to develop proposals for the Better Care fund.	<b>Green</b>
<b>Improving efficiency &amp; productivity</b>	The Council has a good track record of improving its efficiency and productivity. However comparative costs appear to be above the average of other similar councils for Adult social care services. The medium term financial plan contains the target to save £12 million through shared services arrangements, however there are no firm proposals to underpin this target at present.	<b>Amber</b>

To support our VfM conclusion against the specified criteria we performed a risk assessment against VfM risk indicators specified by the Audit Commission, and additional indicators identified by ourselves. Following completion of our work we noted the following residual risks to our VfM conclusion:

Residual risk identified	Summary findings	RAG rating
review key financial performance indicators for 2013/14.	The Council made a surplus of £1.8 million in 2013/14. The level of reserves, debt, working balances and schools balances are in line with those of other London councils.	Green
review and comment on your medium term financial projections.	The revised Medium Term financial plan was published in July 2014 and covers the period to 2018. A number of scenarios are set out in the plan, but the most probable is that the Council faces a funding gap of £95 million over the period. This arises due to cost pressures and reductions in central government programme. The scale of the challenge leads to the "amber " rating.	Amber
consider the work of the Lewisham Futures Board in seeking to ensure a sustainable future for the Council's services	Senior Management have established the Lewisham Futures Programme Board to drive through the changes needed to provide a sustainable financial position. The Council recognises that savings of this magnitude will have an impact on the way the Council provides its services. The Board has set out its thematic reviews to provide the framework for the transformational change which the Council needs to implement.	Green
Review your performance against your savings targets and comment on your identification of savings in 2014/15 and beyond.	The £95 million required savings have been profiled over four years. The Council estimates that £38 million is needed in 2015/16. As at September 2014 management is in the process of identifying proposals for cost savings and additional income which would achieve the £38 million. Around £27 million of proposals have been developed for further discussion with members.	Amber
Consider the management of staffing reductions in the finance function	The finance department has undergone a significant restructuring in 2013/14, with the number of principal accountants reducing from 14 to 9. This has had an impact on the accounts and auditing process in 2013/14 with some officers carrying out their new responsibilities for the first time. However it has been managed in a controlled way with responsibilities being appropriately reallocated to other officers.	Green
Comment on your partnership working in seeking to maximise the benefits of the Better Care Fund	The Council has engaged closely with its local NHS partners, particularly Lewisham CCG, to develop its approach to the better care fund.	Green

## Section 4: Fees, non audit services and independence



01. Executive summary
02. Audit findings
03. Value for Money
<b>04. Fees, non audit services and independence</b>
05. Communication of audit matters

# Fees, non audit services and independence

We confirm below our final fees charged for the audit.

## Fees

	Per Audit plan £	Actual fees £
Council audit	255,044	255,044
Grant certification	36,500	36,500
<b>Total audit fees</b>	<b>291,544</b>	<b>291,544</b>

Page 202

## Fees for other services

Service	Fees £
None	Nil

## Independence and ethics

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Auditing Practices Board's Ethical Standards and therefore we confirm that we are independent and are able to express an objective opinion on the financial statements.

We confirm that we have implemented policies and procedures to meet the requirements of the Auditing Practices Board's Ethical Standards.

## Section 5: Communication of audit matters

01. Executive summary

02. Audit findings

03. Value for Money

04. Fees, non audit services and independence

05. Communication of audit matters

Page 203

# Communication of audit matters to those charged with governance

International Standard on Auditing (ISA) 260, as well as other ISAs, prescribe matters which we are required to communicate with those charged with governance, and which we set out in the table opposite.

The Audit Plan outlined our audit strategy and plan to deliver the audit, while this Audit Findings report presents the key issues and other matters arising from the audit, together with an explanation as to how these have been resolved.

## Respective responsibilities

The Audit Findings Report has been prepared in the context of the Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission ([www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)).

We have been appointed as the Council's independent external auditors by the Audit Commission, the body responsible for appointing external auditors to local public bodies in England. As external auditors, we have a broad remit covering finance and governance matters.

Our annual work programme is set in accordance with the Code of Audit Practice ('the Code') issued by the Audit Commission and includes nationally prescribed and locally determined work. Our work considers the Council's key risks when reaching our conclusions under the Code.

It is the responsibility of the Council to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the Council is fulfilling these responsibilities.

Our communication plan	Audit Plan	Audit Findings
Respective responsibilities of auditor and management/those charged with governance	✓	
Overview of the planned scope and timing of the audit. Form, timing and expected general content of communications	✓	
Views about the qualitative aspects of the entity's accounting and financial reporting practices, significant matters and issues arising during the audit and written representations that have been sought		✓
Confirmation of independence and objectivity	✓	✓
A statement that we have complied with relevant ethical requirements regarding independence, relationships and other matters which might be thought to bear on independence. Details of non-audit work performed by Grant Thornton UK LLP and network firms, together with fees charged Details of safeguards applied to threats to independence	✓	✓
Material weaknesses in internal control identified during the audit		✓
Identification or suspicion of fraud involving management and/or others which results in material misstatement of the financial statements		✓
Compliance with laws and regulations		✓
Expected auditor's report		✓
Uncorrected misstatements		✓
Significant matters arising in connection with related parties		✓
Significant matters in relation to going concern		✓

# Appendices

Page 205

# Appendix A: Action plan

## Priority

**High** - Significant effect on control system

**Medium** - Effect on control system

**Low** - Best practice

Rec No.	Recommendation	Priority	Management response	Implementation date & responsibility
Page 206	1 Engage with the Council's valuers to improve the quality and the timeliness of the valuation process	High		
	2 Review and improve the Council's arrangements for accounting for PPE valuations	High		
	3 For 2014/15 ensure all expenditure treated as Assets under Construction is valid capital spending and complies with accounting standard IAS16.	Medium		
	4 Investigate the differences highlighted between the expected PFI values and those reported in your financial statements.	Low		
	5 Provide a full reconciliation and audit trail for principal bank accounts as in 12/13.	Medium		

## Appendix A: Action plan (2)

**Priority**

**High** - Significant effect on control system

**Medium** - Effect on control system

**Low** - Best practice

Rec No.	Recommendation	Priority	Management response	Implementation date & responsibility
6	Verify schools bank reconciliations and ensure these agree to the financial statements	Medium		
7	Carry out and retain evidence of regular and timely reconciliations of the payroll interface with the ledger.	Medium		

Page 207

## Appendix B: Audit opinion

We anticipate we will provide the Council with an unmodified audit report

Page 208

Page 209



© 2014 Grant Thornton UK LLP. All rights reserved.

'Grant Thornton' means Grant Thornton UK LLP, a limited liability partnership.

Grant Thornton is a member firm of Grant Thornton International Ltd (Grant Thornton International). References to 'Grant Thornton' are to the brand under which the Grant Thornton member firms operate and refer to one or more member firms, as the context requires. Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by member firms, which are not responsible for the services or activities of one another. Grant Thornton International does not provide services to clients.

[grant-thornton.co.uk](http://grant-thornton.co.uk)

# The Audit Findings Report for London Borough of Lewisham Pension Fund

Year ended 31 March 2014

September 2014

Page 211

**Darren Wells**

Engagement Lead

T +44 (0)1293 554120

E darren.j.wells@uk.gt.com

**Jamie Bewick**

Senior Manager

T +44 (0)1293 554138

E jamie.n.bewick@uk.gt.com

**Richard Slater**

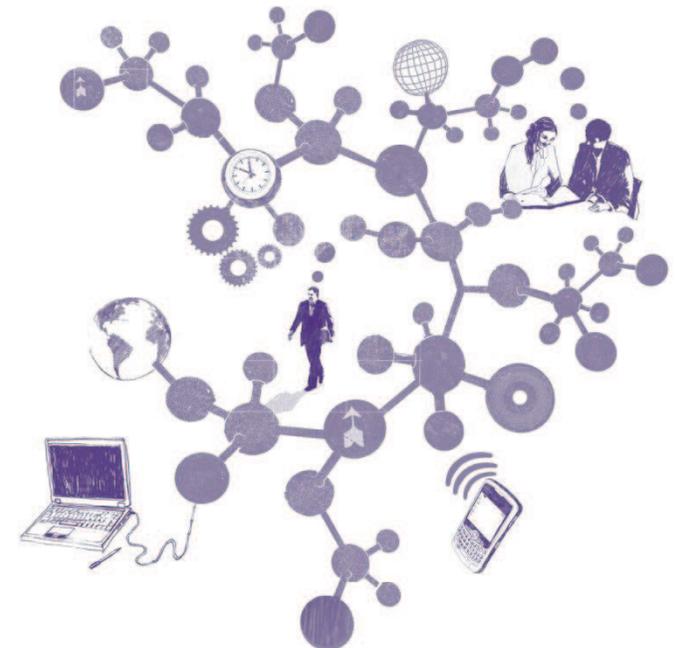
Executive

T +44 (0)20 77283346

E richard.a.slater@uk.gt.com

# DRAFT

This version of the report is a draft. Its contents and subject matter remain under review and its contents may change and be expanded as part of the finalisation of the report.



The contents of this report relate only to those matters which came to our attention during the conduct of our normal audit procedures which are designed primarily for the purpose of expressing our opinion on the financial statements. Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we will report these to you. In consequence, our work cannot be relied upon to disclose defalcations or other irregularities, or to include all possible improvements in internal control that a more extensive special examination might identify.

We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

# Contents

<b>Section</b>	<b>Page</b>
1. Executive summary	4
2. Audit findings	6
3. Fees, non audit services and independence	16
4. Developments relevant to your pension fund and the audit	18
5. Communication of audit matters	20

## Appendices

- A Action plan
- B Audit opinion

Page 213

## Section 1: Executive summary

01. Executive summary

02. Audit findings

03. Fees, non audit services and independence

04. Future developments

05. Communication of audit matters

Page 214

# Executive summary

## Purpose of this report

This report highlights the key issues arising from the audit of London Borough of Lewisham Pension Fund ('the Fund') financial statements for the year ended 31 March 2014. It is also used to report our audit findings to officers and the Council's Audit Panel (as those charged with governance) in accordance with the requirements of International Standard on Auditing (UK & Ireland) 260.

Under the Audit Commission's Code of Audit Practice we are required to report whether, in our opinion, the Fund's financial statements present a true and fair view of the financial position, the financial transactions of the Fund during the year and whether they have been properly prepared in accordance with the Code of Practice on Local Authority Accounting.

## Introduction

In the conduct of our audit we have not had to alter or change our planned audit approach, which we communicated to you in our Audit Plan dated June 2014.

Our audit is substantially complete although we are finalising our procedures in the following areas:

- journals, benefit payments, contributions and member data still require further testing
- review of the final version of the financial statements and Pension Fund Annual Report
- obtaining and reviewing the management letter of representation
- updating our post balance sheet events review, to the date of signing the opinion
- a technical review of investments.

We received draft financial statements and accompanying working papers at the start of our audit, in accordance with the agreed timetable.

## Key issues arising from our audit

### Financial statements opinion

We anticipate providing an unqualified opinion on the Fund's financial statements subject to the satisfactory completion of our work.

Our audit did not identify any adjustments affecting the Fund's reported financial position (details are recorded in section two of this report). The draft financial statements recorded net assets/liabilities carried forward of £904,794k; and this remains the same in the audited financial statements.

We have proposed a small number of adjustments to improve the presentation of the financial statements.

The key messages arising from our audit of the Fund's financial statements are:

- the quality of the financial statements were of a good standard.
- working papers were provided to us at the start of the audit. We noted a small number of errors in the working papers

Further details are set out in section 2 of this report.

## Acknowledgement

We would like to take this opportunity to record our appreciation for the assistance provided by the finance team and other staff during our audit.

**Grant Thornton UK LLP**  
September 2014

## Section 2: Audit findings

Page 216

- 01. Executive summary
- 02. Audit findings
- 03. Fees, non audit services and independence
- 04. Future developments
- 05. Communication of audit matters

# Audit findings

In this section we present our findings in respect of matters and risks identified at the planning stage of the audit and additional matters that arose during the course of our work. We set out on the following pages the work we have performed and findings arising from our work in respect of the audit risks we identified in our audit plan, presented to the Audit Panel on 24 June 2014. We also set out the adjustments to the financial statements from our audit work and our findings in respect of internal controls.

## **Changes to Audit Plan**

We have not made any changes to our Audit Plan as previously communicated to you.

## **Audit opinion**

We anticipate that we will provide the Fund with an unqualified opinion as set out in Appendix B.

## Audit findings against significant risks

"Significant risks often relate to significant non-routine transactions and judgmental matters. Non-routine transactions are transactions that are unusual, either due to size or nature, and that therefore occur infrequently. Judgmental matters may include the development of accounting estimates for which there is significant measurement uncertainty" (ISA 315).

In this section we detail our response to the significant risks of material misstatement which we identified in the Audit Plan. As we noted in our plan, there are two presumed significant risks which are applicable to all audits under auditing standards.

	Risks identified in our audit plan	Work completed	Assurance gained and issues arising
1. Page 218	<p><b>Improper revenue recognition</b></p> <p>Under ISA 240 there is a presumed risk that revenue may be misstated due to improper recognition</p>	<p>We have rebutted this presumption and therefore do not consider this to be a significant risk for the London Borough of Lewisham Pension Fund since:</p> <ul style="list-style-type: none"> <li>• The nature of the Pension Fund's revenue is in many respects relatively predictable and does not generally involve cash transactions.</li> <li>• The split of responsibilities between the Pension Fund, its fund managers and the custodian, provides a very strong separation of duties reducing the risk around investment income.</li> <li>• Revenue contributions are made by direct salary deductions and direct bank transfers from admitted/scheduled bodies, are supported by separately sent schedules and are directly attributable to gross pay, making any improper recognition unlikely.</li> <li>• Transfers into the scheme are all supported by an independent valuation of the amount which should be transferred and which is subject to agreement between the transferring and receiving funds.</li> </ul>	<p>Our audit work has not identified any issues in respect of revenue recognition.</p>
2.	<p><b>Management override of controls</b></p> <p>Under ISA 240 there is a presumed risk of management over-ride of controls</p>	<p>We have completed the following work to address this risk:</p> <ul style="list-style-type: none"> <li>• review of accounting estimates, judgements and decisions made by management</li> <li>• testing of journals entries – these planned procedures are still outstanding</li> <li>• review of unusual significant transactions</li> </ul>	<p>Our audit work has not identified any evidence of management override of controls. However journals testing has not yet been completed.</p> <p>We set out later in this section of the report our work and findings on key accounting estimates and judgements.</p>

# Audit findings against other risks

In this section we detail our response to the other risks of material misstatement which we identified in the Audit Plan.

Transaction cycle	Description of risk	Work completed	Assurance gained & issues arising
<p><b>Investments</b></p>	<ul style="list-style-type: none"> <li>Investments not valid</li> <li>Alternative investments not valid</li> <li>Investment activity not valid</li> <li>Fair value measurements not correct</li> </ul>	<p>We have undertaken the following work in relation to this risk:</p> <ul style="list-style-type: none"> <li>documented our understanding of processes and key controls over the transaction cycle</li> <li>undertaken walkthrough of the key controls to assess whether those controls are designed effectively</li> <li>reconciled investments information provided by the Custodian and Fund Manager to the Fund's accounts</li> <li>confirmed the existence of investments directly with Fund Managers and the Custodian</li> <li>tested sales and purchases during the year back to detailed information provided by the Custodian</li> <li>compared the valuation of HarbourVest private equity unquoted investment to the latest available audited financial statements of the respective investment fund</li> <li>recalculated the fair value of HarbourVest quoted investments using an independently obtained price</li> <li>reviewed the Fund's compliance with its Statement of Investment Principles</li> <li>reviewed the ISAE3402 internal control reports for the fund managers and noted that the expected controls are in place and operating as designed.</li> </ul>	<p>Our audit work has not identified any significant issues in relation to the risk identified.</p>
<p><b>Benefit Payments</b></p>	<ul style="list-style-type: none"> <li>Benefits improperly computed/ liability understated</li> </ul>	<p>We have undertaken the following work in relation to this risk:</p> <ul style="list-style-type: none"> <li>reviewed and tested the key control that all calculations of pension lump sum payments are subject to review by a separate officer in the pensions administration team</li> <li>ensured the pensioner payments calculated by the pensions administration system were correctly input onto the payroll system</li> <li>selected a sample of individual transfers, new pensions in payment and lump sum benefits and tested them by reference to the benefit calculations on the respective member file</li> <li>rationalised pensions paid with reference to changes in pensioner numbers and increases applied in the year together with comparing pensions paid on a monthly basis to ensure that any unusual trends are satisfactorily explained</li> </ul>	<p>Our testing is not complete in this area due to outstanding information.</p>

# Audit findings against other risks

In this section we detail our response to the other risks of material misstatement which we identified in the Audit Plan.

Transaction cycle	Description of risk	Work completed	Assurance gained & issues arising
<b>Contributions</b>	<ul style="list-style-type: none"> <li>Recorded contributions not correct</li> </ul>	<p>We have undertaken the following work in relation to this risk:</p> <ul style="list-style-type: none"> <li>sample tested employee and employer pensions contributions for the administering authority staff to payslips and to HR records to ensure gross salary and contributions to the fund were correctly calculated</li> <li>rationalised contributions received with reference to changes in contributor numbers and average pay</li> <li>sample tested contributions received from Scheduled and Admitted bodies to ensure the contributions received agreed to underlying records.</li> </ul>	<p>Our testing is not complete in this area due to outstanding information.</p>
<b>Member data</b>	<ul style="list-style-type: none"> <li>Member data not correct</li> <li>Regulatory/scheme rules requirements not met</li> </ul>	<p>We have undertaken the following work in relation to this risk:</p> <ul style="list-style-type: none"> <li>reconciled the member data numbers within the financial statements to the pensions administration system</li> <li>sample tested starters, leavers and changes in circumstances to ensure that the member database has been updated accordingly.</li> </ul>	<p>Our testing is not complete in this area due to outstanding information. We will update you at your meeting on 11 September.</p>

Page 220

# Accounting policies, estimates & judgements

In this section we report on our consideration of accounting policies, in particular revenue recognition policies, and key estimates and judgements made and included with the Fund's financial statements.

Accounting area	Summary of policy	Comments	Assessment
<b>Revenue recognition</b>	<ul style="list-style-type: none"> <li>Income and expenditure to the Fund are accounted for on an accruals basis with the exception of transfers.</li> </ul>	<ul style="list-style-type: none"> <li>The Fund's accounting policies are appropriate under IAS 18 Revenue and the Code of Practice on Local Authority Accounting</li> </ul>	 Green
<b>Judgements and estimates</b>  Page 221	<ul style="list-style-type: none"> <li>Key estimates and judgements include:                             <ul style="list-style-type: none"> <li>The actuarial valuation of the fund at 31 March 2013</li> <li>The valuation of private equity investments.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The policies adopted for accounting estimates are appropriate under the Fund's accounting framework</li> <li>The actuarial valuations has been undertaken by the actuary as a management expert</li> <li>The level of judgement required by the Fund is low. Estimates used are supported by adequate workings.</li> <li>Disclosure of judgements and estimates has not been tested</li> </ul>	
<b>Other accounting policies</b>	<ul style="list-style-type: none"> <li>The Fund's accounting policies are in accordance with the requirements of the Code of Practice on Local Authority Accounting.</li> </ul>	<ul style="list-style-type: none"> <li>We have reviewed the Fund's accounting policies against the requirements of the Code of Practice on Local Authority Accounting. The Fund's accounting policies comply with the Code.</li> </ul>	 Green

**Assessment**

● Marginal accounting policy which could potentially attract attention from regulators

● Accounting policy appropriate but scope for improved disclosure

● Accounting policy appropriate and disclosures sufficient

## Adjusted and Unadjusted misstatements

Our audit has identified the following errors within the financial statements. The errors are not material individually, or in aggregate. We are required to report all misstatements to the Audit Panel, whether or not the financial statements have been adjusted by officers. The table below provides details of adjustments identified during the audit which we request be processed, but which have not been made within the final set of financial statements. The Audit Panel is required to approve management's proposed treatment of all items recorded within the table below:

Detail	Fund Account £'000	Net Asset Statement £'000	Reason for not adjusting
1 Difference between the Custodian calculation of private equity investments and the sum of the independently confirmed capital account balances translated to Sterling at 31 March 2014.	(1,695)	1,695	Accounts produced using Custodian figures
A duplicated investment management fee payment which was recorded in the fund account in error.	(53)	53	Too late to make the adjustment in the ledgers
3 Difference between contributions: scheduled and admitted bodies - per accounts and per client schedule.	(96)	96	Client has not responded to query
4 BlackRock investment management fees relating to the period 21/11/12-31/03/13 recorded in the year ended 31 March 2014.	(70) 70 – b/f		Invoices came in late
<b>Overall impact</b>	<b>(£1,844)</b>	<b>£1,844</b>	

## Misclassifications & disclosure changes

The table below provides details of misclassification and disclosure changes identified during the audit which have been made in the final set of financial statements.

Adjustment type	Value £'000	Account balance	Impact on the financial statements
1 Misclassification	756	Benefit payments	There was a misclassification of £756k between pension benefit payments and lump sum benefit payments in the prior year (2012/13) figures in the fund account. They did not agree to the audited 2012/13 accounts. This was done in error and management have agreed to amend.

# Internal controls

The purpose of an audit is to express an opinion on the financial statements.

Our audit included consideration of internal control relevant to the preparation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. The matters reported here are limited to those deficiencies that we have identified during the course of our audit and that we have concluded are of sufficient importance to merit being reported to you in accordance with auditing standards.

	Assessment	Issue and risk	Recommendations
1 Page 224	 Amber	Public Sector Internal Audit Standards require the internal audit function to act independently and objectively. The Council's Head of Corporate Resources has responsibility for financial management of the pension fund as well as overseeing internal audit. We note the Council is aware of this potential threat to independence and has taken steps to mitigate this. Where a potential conflict exists the Internal Audit Contract Manager is able to report directly to the Executive Director of Resources and Regeneration. The contract manager has confirmed there are no such conflicts in 2013/14.	We recommend the Council keeps the appropriateness of this arrangement under review, particularly when the internal audit function is brought in-house.
2	 Amber	We have previously reported that the Pension Fund was in breach of LGPS Regulations, as it was not using the separate Pension Fund bank account for all pension fund transactions.  Over the last two years the Council has been increasing its use of the Pension Fund Bank Account, but is still not fully compliant with LGPS Regulations.	The Regulations are mandatory and the Council should take steps to ensure that this Bank Account is being used for all Pension Fund transactions as soon as possible.

## Assessment

-  Significant deficiency – risk of significant misstatement
-  Deficiency – risk of inconsequential misstatement

## Other communication requirements

We set out below details of other matters which we, as auditors, are required by auditing standards to communicate to those charged with governance.

	Issue	Commentary
1.	<b>Matters in relation to fraud</b>	<ul style="list-style-type: none"> <li>We have previously discussed the risk of fraud with the Audit Panel. We have not been made aware of any other incidents in the period and no other issues have been identified during the course of our audit.</li> </ul>
2.	<b>Matters in relation to laws and regulations</b>	<ul style="list-style-type: none"> <li>We are not aware of any significant incidences of non-compliance with relevant laws and regulations.</li> </ul>
3.	<b>Written representations</b>	<ul style="list-style-type: none"> <li>A standard letter of representation has been requested from the Fund.</li> </ul>
4.	<b>Disclosures</b>	<ul style="list-style-type: none"> <li>Our review of disclosures has not been completed.</li> </ul>
5.	<b>Matters in relation to related parties</b>	<ul style="list-style-type: none"> <li>There is a minor query outstanding in relation to related party transactions.</li> </ul>
6.	<b>Going concern</b>	<ul style="list-style-type: none"> <li>Our work has not identified any reason to challenge the Fund's decision to prepare the financial statements on a going concern basis.</li> </ul>

## Section 3: Fees, non audit services and independence

Page 226

- 01. Executive summary
- 02. Audit findings
- 03. Fees, non audit services and independence**
- 04. Future developments
- 05. Communication of audit matters

# Fees, non audit services and independence

We confirm below our final fees charged for the audit and confirm there were no fees for the provision of non audit services.

**Fees**

	Per Audit plan £	Actual fees £
Fund audit	21,000	21,000
<b>Total audit fees</b>	<b>21,000</b>	<b>21,000</b>

**Fees for other services**

Service	Fees £
None	Nil

**Independence and ethics**

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Auditing Practices Board's Ethical Standards and therefore we confirm that we are independent and are able to express an objective opinion on the financial statements.

We confirm that we have implemented policies and procedures to meet the requirements of the Auditing Practices Board's Ethical Standards.

Page 227

## Section 4: Future developments

Page 228

- 01. Executive summary
- 02. Audit findings
- 03. Fees, non audit services and independence
- 04. Future development**
- 05. Communication of audit matters

# Developments relevant to your Pension Fund and the audit

Political		Environmental		Social		Technological	
Developments relevant to the next financial year							
<p><b>1. Financial reporting</b></p> <p>CIPFA has published best practice guidance relating to the identification and disclosure of administrative and investment management expenditure. This applies from 2014/15 and will enable consistent reporting across the LGPS facilitating more meaningful comparisons in this area. The definition is separated into three distinct categories of costs.</p>		<p><b>2. Legislation</b></p> <p>Under the Local Government Pension Scheme (LGPS 2014), pensions will be calculated on Career Average Revalued Earnings (CARE) rather than a final salary basis from 1 April 2014. Administering authorities will need to ensure their updated administration systems are calculating new pensions accruals correctly from 1 April 2014; dealing effectively with more complex data requirements and that new contribution rates are being correctly applied by employers.</p>		<p><b>3. Actuarial valuation</b></p> <p>Following the 31 March 2013 actuarial valuation all employers will need to consider the level of additional employer deficit contributions required and how to fund them.</p>		<p><b>4. Other issues</b></p> <p>The number of LGPS employers continues to grow as local authorities outsource services. Affected funds need to consider the impact this has on its exposure to risks and reflect on the impact this has for their investment strategies.</p>	
Developments relevant to future periods							
<p><b>1. Financial reporting</b></p> <p>Changes to the Pension SORP may affect the investment disclosures in the Net Asset Statement and Fair Value determination (changing the classification from level 1, 2 &amp; 3 to A, B &amp; C). A revised SORP will be issued in 2014 and may find its way into the LG code in 2015/16.</p>		<p><b>2. Legislation</b></p> <p>From April 1 2015 The Pensions Regulator will have formal powers and responsibilities for oversight of the LGPS. This will include monitoring implementation of new governance arrangements, which require the creation of a scheme manager and pension board for each LGPS.</p> <p>The Administering Authority will need to determine how it will meet the requirement to have a pension board and the consequent changes it will need to make to its general governance arrangements.</p>		<p><b>3. Structural reform</b></p> <p>DCLG is consulting on the potential use of Collective Investment Vehicles and passive management of funds.</p> <p>The outcome of this consultation may lead to a change in administration of some schemes and significant changes in investment strategies.</p>		<p><b>4. Other issues</b></p> <p>The Pensions Regulator, Financial Conduct Authority and HMRC continue to commit resources to combat pension liberation schemes. More guidance and potential changes to HMRC registration of new schemes is likely.</p>	

Page 229

## Section 5: Communication of audit matters

- Page 230
- 01. Executive summary
  - 02. Audit findings
  - 03. Fees, non audit services and independence
  - 04. Future developments
  - 05. Communication of audit matters

# Communication of audit matters to those charged with governance

International Standards on Auditing (ISA) 260, as well as other ISAs, prescribe matters which we are required to communicate with those charged with governance, and which we set out in the table opposite.

The Audit Plan outlined our audit strategy and plan to deliver the audit, while this Audit Findings report presents the key issues and other matters arising from the audit, together with an explanation as to how these have been resolved.

## Respective responsibilities

The Audit Findings Report has been prepared in the context of the Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission ([www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)).

We have been appointed as the Fund's independent external auditors by the Audit Commission, the body responsible for appointing external auditors to local public bodies in England. As external auditors, we have a broad remit covering finance and governance matters.

Our annual work programme is set in accordance with the Code of Audit Practice ('the Code') issued by the Audit Commission and includes nationally prescribed and locally determined work. Our work considers the Fund's key risks when reaching our conclusions under the Code.

It is the responsibility of the Fund to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the Fund is fulfilling these responsibilities.

Our communication plan	Audit Plan	Audit Findings
Respective responsibilities of auditor and management/those charged with governance	✓	
Overview of the planned scope and timing of the audit. Form, timing and expected general content of communications	✓	
Views about the qualitative aspects of the entity's accounting and financial reporting practices, significant matters and issues arising during the audit and written representations that have been sought		✓
Confirmation of independence and objectivity	✓	✓
A statement that we have complied with relevant ethical requirements regarding independence, relationships and other matters which might be thought to bear on independence. Details of non-audit work performed by Grant Thornton UK LLP and network firms, together with fees charged Details of safeguards applied to threats to independence	✓	✓
Material weaknesses in internal control identified during the audit		✓
Identification or suspicion of fraud involving management and/or others which results in material misstatement of the financial statements		✓
Compliance with laws and regulations		✓
Expected auditor's report		✓
Uncorrected misstatements		✓
Significant matters arising in connection with related parties		✓
Significant matters in relation to going concern		✓

Appendices  
Page 232

# Appendix A: Action plan

**Priority**

**High** - Significant effect on control system

**Medium** - Effect on control system

**Low** - Best practice

Rec No.	Recommendation	Priority	Management response	Implementation date & responsibility
Page 233	<p>The Council's Head of Corporate Resources has responsibility for financial management of the pension fund as well as overseeing internal audit. We recommend the Council keeps the appropriateness of this arrangement under review, particularly when the internal audit function is brought in-house.</p>	Medium		
	<p>Over the last two years the Council has been increasing its use of the Pension Fund Bank Account, but is still not fully compliant with LGPS Regulations.</p> <p>The Regulations are mandatory and the Council should take steps to ensure that this Bank Account is being used for all Pension Fund transactions as soon as possible.</p>	Medium		

# Appendix B: Audit opinion

**We anticipate that we will provide the Fund with an unmodified audit report**

## INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF LONDON BOROUGH OF LEWISHAM PENSION FUND

### Opinion on the pension fund financial statements

We have audited the pension fund financial statements of London Borough of Lewisham Pension Fund for the year ended 31 March 2014 under the Audit Commission Act 1998. The pension fund financial statements comprise the Fund Account, the Net Assets Statement and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2013/14.

Our report is made solely to the members of London Borough of Lewisham Pension Fund in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 48 of the Statement of Responsibilities of Auditors and Audited Bodies published by the Audit Commission in March 2010. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's Members as a body, for our audit work, for this report, or for the opinions we have formed.

### Respective responsibilities of the Executive Director for Resources and Regeneration and auditor

As explained more fully in the Statement of the Executive Director for Resources and Regeneration's Responsibilities, the Executive Director for Resources and Regeneration is responsible for the preparation of the Authority's Statement of Accounts, which includes the pension fund financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom, and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### Scope of the audit of the pension fund financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the fund's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Executive Director for Resources and Regeneration; and the overall presentation of the financial statements.

In addition, we read all the financial and non-financial information in the explanatory foreword and the annual report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

### Opinion on the pension fund financial statements

In our opinion the pension fund's financial statements: give a true and fair view of the financial transactions of the pension fund during the year ended 31 March 2014 and the amount and disposition of the fund's assets and liabilities as at 31 March 2014, other than liabilities to pay pensions and other benefits after the end of the scheme year; and have been properly prepared in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2013/14 and applicable law.

### Opinion on other matters

In our opinion, the information given in the explanatory foreword for the financial year for which the financial statements are prepared is consistent with the financial statements.

Darren Wells  
Director  
for and on behalf of Grant Thornton UK LLP, Appointed Auditor

Grant Thornton UK LLP  
Fleming Way  
Manor Royal  
Crawley  
RH10 9GT

September 2014



© 2014 Grant Thornton UK LLP. All rights reserved.

'Grant Thornton' refers to the brand under which the Grant Thornton member firms provide assurance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires.

Grant Thornton UK LLP is a member firm of Grant Thornton International Ltd (GTIL). GTIL and the member firms are not a worldwide partnership. GTIL and each member firm is a separate legal entity. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions.

[grant-thornton.co.uk](http://grant-thornton.co.uk)

Darren Wells  
Director  
Grant Thornton UK LLP  
The Explorer Building  
Fleming Way  
Manor Royal  
Crawley  
West Sussex  
RH10 9GT

5th Floor  
Laurence House  
Catford  
London  
SE6 4RU

Direct line 020 8314 8013  
e-mail: Janet.Senior@lewisham.gov.uk

Date: 11<sup>th</sup> September 2014

Dear Darren

**London Borough of Lewisham and Lewisham Pension Fund  
Financial Statements for the year ended 31 March 2014**

This representation letter is provided in connection with the audit of the financial statements of London Borough of Lewisham and Lewisham Pension Fund for the year ended 31 March 2014 for the purpose of expressing an opinion as to whether the financial statements give a true and fair view in accordance with International Financial Reporting Standards.

We confirm that to the best of our knowledge and belief having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves:

**Financial Statements**

- i We have fulfilled our responsibilities for the preparation of the financial statements in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in Great Britain ("the Code") as adapted for International Financial Reporting Standards; in particular the financial statements give a true and fair view in accordance therewith.
- ii We have complied with the requirements of all statutory directions and these matters have been appropriately reflected and disclosed in the financial statements.
- iii The Council has complied with all aspects of contractual agreements that could have a material effect on the financial statements in the event of non-compliance.

- iv We acknowledge our responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud.
- v Significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable.
- vi We are satisfied that the material judgements used by us in the preparation of the financial statements are soundly based, in accordance with the Code, and adequately disclosed in the financial statements. There are no further material judgements that need to be disclosed.
- vii Except as stated in the financial statements:
  - a. There are no unrecorded liabilities, actual or contingent.
  - b. None of the assets of the council has been assigned, pledged or mortgaged.
  - c. There are no material prior year charges or credits, nor exceptional or non-recurring items requiring separate disclosure.
- viii We confirm that we are satisfied that the actuarial assumptions underlying the valuation of pension scheme liabilities for IAS19 disclosures are consistent with our knowledge. We confirm that all settlements and curtailments have been identified and properly accounted for. We also confirm that all significant retirement benefits have been identified and properly accounted for.
- ix Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with the requirements of International Financial Reporting Standards and the Code.
- x All events subsequent to the date of the financial statements and for which International Financial Reporting Standards and the Code require adjustment or disclosure have been adjusted or disclosed.
- xi Actual or possible litigation and claims have been accounted for and disclosed in accordance with the requirements of International Financial Reporting Standards.
- xii We have adjusted the misstatements brought to our attention in the Audit Findings Reports and confirm that the financial statements are free of material misstatements, including omissions.
- xiii We have no plans or intentions that may materially alter the carrying value or classification of assets and liabilities reflected in the financial statements.
- xiv We believe that the Council's financial statements should be prepared on a going concern basis on the grounds that current and future sources of funding or support will be more than adequate for the Council's needs. We believe that no

further disclosures relating to the Council's ability to continue as a going concern need to be made in the financial statements.

### **Information Provided**

- xv We have provided you with:
  - a. access to all information of which we are aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;
  - b. additional information that you have requested from us for the purpose of your audit; and
  - c. unrestricted access to persons within the Council from whom you determined it necessary to obtain audit evidence.
- xvi We have communicated to you all deficiencies in internal control of which management is aware.
- xvii All transactions have been recorded in the accounting records and are reflected in the financial statements.
- xviii We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
- xix We have disclosed to you all information in relation to fraud or suspected fraud that we are aware of and that affects the Council and involves:
  - a. management;
  - b. employees who have significant roles in internal control; or
  - c. others where the fraud could have a material effect on the financial statements.
- xx We have disclosed to you all information in relation to allegations of fraud, or suspected fraud, affecting the Council's financial statements communicated by employees, former employees, regulators or others.
- xxi We have disclosed to you all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements.
- xxii We have disclosed to you the entity of the Council's related parties and all the related party relationships and transactions of which we are aware.

xxiii We have disclosed to you all known actual or possible litigation and claims whose effects should be considered when preparing the financial statements.

### **Annual Governance Statement**

xxiv We are satisfied that the Annual Governance Statement (AGS) fairly reflects the Council's risk assurance and governance framework and we confirm that we are not aware of any significant risks that are not disclosed within the AGS

### **Approval**

The approval of this letter of representation was minuted by the Council's Audit Panel at its meeting on 11 September 2014.

### **Signed on behalf of the Council and the Lewisham Pension Fund**

**Janet Senior**

**Executive Director for Resources and Regeneration**

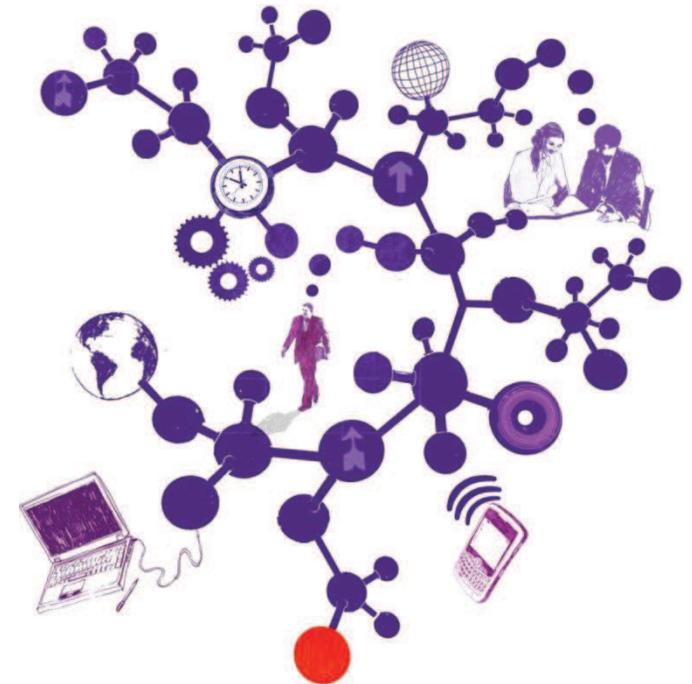
**18<sup>th</sup> September 2014**

# Report on Value for Money for London Borough of Lewisham

Year ended 31 March 2014  
Report date August 2014

**Darren Wells**  
Director  
T 01293 554 120  
E [darren.j.wells@uk.gt.com](mailto:darren.j.wells@uk.gt.com)

**Jamie Bewick**  
Senior Manager  
T 01293 554 138  
E [jamie.n.bewick@uk.gt.com](mailto:jamie.n.bewick@uk.gt.com)



The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

# Contents

01 Introduction Page 3-4

02 Executive Summary Page 5-7

03 Key Indicators of Financial Performance Page 8

04 Strategic Financial Planning Page 9-10

05 Financial Governance Page 11-12

06 Financial Control Page 13-15

07 Prioritising Resources Page 16

08 Improving Efficiency & Productivity Page 17

09 Management of Natural Resources Page 18

Appendix 1 – Benchmarking and other charts Page 19-23

---

# Introduction

## What is this report?

This report summarises the findings from our work supporting our Value for Money (VfM) conclusion, which is required as part of the statutory external audit responsibilities.

It complements our Audit Findings Report, by providing additional detail on the themes that underpin our VfM conclusion.

## Value for Money Conclusion

The Code of Audit Practice 2010 (the Code) describes the Council's responsibilities to put in place proper arrangements to:

- secure economy, efficiency and effectiveness in its use of resources
- ensure proper stewardship and governance
- review regularly the adequacy and effectiveness of these arrangements.

We are required to give our VfM conclusion based on two criteria specified by the Audit Commission, which support our reporting responsibilities under the Code.

These criteria are:

**The Council has proper arrangements in place for securing financial resilience:** the Council has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future (defined by the Audit Commission as "twelve months from the date of issue of the report").

**The Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness:** the Council is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.

The Code require auditors to identify significant risks to the VfM conclusion and to plan sufficient work to evaluate the impact of those risks, if any.

## Our approach

The approach involves:

- desktop analysis of relevant documentation
- meetings with key internal stakeholders
- a risk assessment to identify any significant risks.

Our approach is designed to assess:

- arrangements in place related to the specified criteria
- performance during 2013-14 and what that says about those arrangements
- any significant risks that we have identified.

---

# Introduction

## What is this context?

### Nationally

The 2010 Spending Review set the Coalition Government's financial settlement for the four years to 2014/15, and the 2013 Review then covered 2015/16. By the end of this period, central funding to local government will have reduced by 35%.

2013/14 is the third year of councils having to deliver efficiency savings in response to the 2010 Spending Review and, given the 2013 Review and the budget statement in 2014, the challenging financial environment will continue for the foreseeable future. Delivering these efficiency savings and maintaining financial resilience is becoming increasingly difficult, even for top-performing councils. The challenges include:

- transformational change for many authorities after many years of cost efficiencies
- responding to welfare reform; and
- the drive towards more integrated health and social care; and
- anticipated increase in demand for many demography-driven council services, whereas demand for some income-earning services is falling.

To fulfil their statutory requirements, councils must continue to provide mandatory services. But the opposing trends in funding and demand will create a sizeable funding gap even if carefully managed. In short, the sector is working through its greatest financial challenge of recent times.

### Locally

In common with much of the capital the London Borough of Lewisham has a growing population, increasing demand for services and an acute shortage of decent affordable housing. Local council elections were held on 22 May 2014; elected councillors are facing a period of extreme challenge.

The Council has a good track record of managing its finances and meeting its financial targets. It continued this good performance in 2013/14, making a surplus of £1.8 million. However the combination of cost pressures and cuts to grant funding mean that an estimated £95 million of savings will be required between 2014 and 2018.

According to deprivation statistics published by the Department of Communities and Local Government, Lewisham is one of the most deprived areas in England. Historic comparative data shows Lewisham has relatively few alternative sources of income compared to other councils. Consequently the Council is reliant on central government grant funding and is proportionally more affected by reductions in grant funding than some other councils.

While the Council has set a balanced budget for 2014/15 the scale of the challenge means that more radical solutions may be required from 2015/16 onwards, including changes to front line council services. Senior officers recognises this and the Lewisham Futures programme has been established to consider the future provision of services in an environment of significantly reduced funding.

---

# Executive Summary

## Overall Risk Assessment

We carried out an initial risk assessment and we planned to carry out work in the following areas to address the risks we identified:

- review key financial performance indicators for 2013/14.
- review and comment on your medium term financial projections.
- review your performance against your savings targets and comment on your identification of savings in 2014/15 and beyond.

• consider the work of the Lewisham Futures Board in seeking to ensure a sustainable future for the Council's services.

• Consider the management of staffing reductions in the finance function.

• Comment on your partnership working in seeking to maximise the benefits of the Better Care Fund.

## Overall VfM conclusion

Based on our review of the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources, we propose to give an unqualified VfM conclusion.

We note however that the conclusion is subject to a moderation process.

## Key findings

### Securing financial resilience

We have undertaken a review which considered the Council's arrangements against key indicators of financial performance and the three expected characteristics of proper arrangements, as defined by the Audit Commission:

- strategic financial planning
- financial governance
- financial control.

Overall our work highlighted that the Council has a good track record of managing its finances, making efficiencies and meeting its financial targets. In 2013/14 the Council made a surplus of £1.8 million and increased the level of its reserves. 2013/14 comparative data with other London Boroughs shows that the Council has levels of balances, reserves and working capital that are adequate and in line with other London councils.

The challenge of reduced funding is having an impact in 2014/15. While the Council has set a balanced budget for the year, it has had to draw on £3 million of reserves to support the revenue position whilst it seeks further efficiencies. Additionally the Council is experiencing cost pressures which, by current forecasts, indicate a potential overspend at directorate level of over £10 million. The largest cost pressure relates to residents with no recourse to public funds. The corporate budget includes a £3.9 million contingency which could partly mitigate the impact of budget pressures.

---

# Executive Summary

## Key findings

### Securing financial resilience (continued)

2015/16 is a potential tipping point for the Council's finances. The Council estimates that £38 million of savings and efficiencies are needed to set a balanced budget.

The Council understands the scale of the challenge and that savings of this magnitude will necessarily mean changes to the way it provides services. The Lewisham Futures Board's remit is to identify options for achieving these savings. At the time of writing council management had identified £27 million of savings options. These have still to be published and agreed with members. Alongside the work of the Lewisham Futures Board the Council has been carrying out a zero based budgeting exercise, which has identified a further round of potential savings which, if agreed, would further address the potential budget gap for 2015/16.

The Council has a good track record of implementing savings. However due to the scale of the challenge and the short time scale there is a risk that the Council may not be able to implement its proposals in time to bridge the potential budget gap in 2015/16.

The Council has considered this risk and the mitigating, non-recurring measures which would be needed in that scenario to set and deliver a balanced budget.

The 9<sup>th</sup> July 2014 meeting of the Public Accounts Committee received the Council's updated medium term financial strategy, setting out the financial forecasts for the period up to 2017/18. The headline message is that £95 million of savings will be needed over the period.

## Key findings

### Challenging economy, efficiency and effectiveness

We have reviewed whether the Council has prioritised its resources to take account of the tighter constraints it is required to operate within and whether it has achieved cost reductions and improved productivity and efficiencies.

Overall our work highlighted that the Council has established arrangements for identifying potential savings.

The Audit Commission publishes comparative cost data through value for money profiles on its website. The most recent data is for the year 2012/13 and compares the London Borough of Lewisham to other similar councils. Two of the headline messages are:

- adult social care costs are one of the highest in the peer group.
- Lewisham has the lowest level of income from fees and charges of any council in the peer group.

The Council recognises these issues. Adult social care and fees and charges are two of the headline thematic reviews in the work of the Lewisham Futures Board, where the Council is putting forward options for reducing costs and increasing income.

Another theme of the Lewisham Futures Programme is the target to save £12 million per annum through shared service arrangements. At this stage there are no firm proposals to underpin this target, although the Council is exploring a number of options. The Council recognises that this is one of the most challenging to achieve of its thematic reviews.

# Executive Summary

We use a red/amber/green (RAG) rating with the following definitions.

<b>Green</b>	<b>Adequate arrangements appear to be in place</b>
<b>Amber</b>	<b>Adequate arrangements, with areas for development</b>
<b>Red</b>	<b>Inadequate arrangements</b>

## Overview of arrangements

Risk area	Summary observations	High level risk assessment
<b>Key Indicators of Financial Performance</b>	The key indicators of financial performance for 2013/14 show the Council's performance to be similar to other London Boroughs.	<b>Green</b>
<b>Strategic Financial Planning</b>	The Council has developed a medium term financial plan aimed at maintaining a resilient financial position. The plan covers the period to 2018 and estimates that £95 million of cumulative savings will be required.	<b>Green</b>
<b>Financial Governance</b>	Management and members demonstrate a sound understanding of the financial challenges facing the Council.	<b>Green</b>
<b>Financial Control</b>	Overall the Council has adequate financial controls in place. However the savings needed to achieve a resilient financial position in the medium term are highly challenging. Although the Council has string arrangements, the scale of the issue is such there is a risk of this not being achieved in the time scale. The Council is projecting a directorate level overspend of £10 million in 2014/15.	<b>Amber</b>
<b>Prioritising Resources</b>	The Council has good arrangements in place for prioritising its resources. This has been demonstrated in the work of the Lewisham Futures Board and in the Council's active engagement with NHS partners to develop proposals for the Better Care fund.	<b>Green</b>
<b>Improving Efficiency &amp; Productivity</b>	The Council has a good track record of improving its efficiency and productivity. However comparative costs appear to be above the average of other similar councils, particularly for Adult social care. The medium term financial plan contains the target to save £12 million through shared services arrangements, however there are no firm proposals to underpin this target at present.	<b>Amber</b>
<b>Management of Natural Resources</b>	The Council has good arrangements in place for managing its use of natural resources	<b>Green</b>

# Key Indicators of Financial Performance

Area of focus	Summary observations	RAG-Rating
<b>Liquidity</b>	We have include a graph at page 15 which compares your levels of working capital to other London councils. The graph shows you have adequate working capital and are about average compared with the peer group.	<b>Green</b>
<b>Borrowing</b>	We have included a graph at page 15 which compares your levels of long term borrowing to other London councils. The graphs shows your levels of debt are in line with the peer group.	<b>Green</b>
<b>Workforce</b>	<p>The level of sickness absence is 7.2 days per employee. This is less than the local government average of 8.8 days per full time equivalent.</p> <p>Your financial records indicate the Council incurred £23.3 million of expenditure on temporary and agency staff in 2013/14 (the figure includes schools staff). Use of temporary staffing can be a pragmatic way of managing staffing needs in a time of change and restructuring, but agency staff also tend to be more expensive than in-house staff. This is a significant sum which may warrant investigating.</p>	<b>Green</b>
<b>Performance against budgets (Revenue Capital &amp; Savings)</b>	Your outturn report shows that for 2013/14 you made a surplus of £1.8 million compared with your budget. Council Tax collection for the year was 94.8% which is equivalent to the previous year, despite the reduction in council tax support. Capital expenditure for the year was £114.4m which was 96% of the revised forecasted year-end expenditure budget of £119.8m. A total of 95% of the £20.9m savings agreed in setting the 2013/14 budget were delivered on schedule.	<b>Green</b>
<b>Reserves balances</b>	The graph at page 18 which compares your levels of usable reserves to other London councils. The graph shows the levels of reserves are around average compared with the peer group.	<b>Green</b>
<b>Schools balances</b>	The graph at page 19 compares your levels of school reserves to other London councils and shows the level of reserves is average compared with the peer group.	<b>Green</b>

# Strategic Financial Planning

Area of focus	Summary observations	RAG-Rating
<b>Focus of the MTFP</b>	<p>The 9<sup>th</sup> July meeting of the Public Accounts Committee received the Council's new Medium Term Financial Plan. This sets out the Council's financial position over the next four years to 2017/18. The plan makes prudent and realistic assumptions about the levels of savings and efficiencies which will be required over the next four years.</p> <p>The plan sets out the impact of inflationary pressures as well as the impact of cuts to central government grant. The plan also sets out best and worst case scenarios for the levels of savings which will be required, and considers these scenarios in arriving at the most likely scenario of £95 million savings requirement.</p> <p>The plan recognises that cuts will need to be made to front line services to meet the financial challenge. The plan also sets out the thematic areas where the cuts will affect, while recognising that the detail of those plans still needs to be agreed. In conclusion the Council has developed a prudent and realistic medium term financial plan with appropriate focus.</p>	<p><b>Green</b></p>
<b>Adequacy of planning assumptions</b>	<p>The Council made reasonable and prudent assumptions in developing its medium term financial plan. On Inflation, the Council has applied a rate of 1% to pay, and a rate of 2.5% to most non-pay items. Both of these inflation rates are in line with the values reported by the Office of National Statistics in December 2013. The Council has also made prudent projections of the anticipated levels of central government grant funding.</p> <p>The combined effect of cost pressures and reductions to funding leads to a projected shortfall of £95m of additional savings which need to be found by the Council between 2014 and 2018. This has required a full review of all of the services and functions. The Lewisham Future Programme Board has been set up to oversee this review. The Council's overall priorities have also remained a key element of this process, and all potential savings have been considered against the priorities to minimise adverse impacts.</p> <p>In setting the 2014/15 budget there remained a £3million budget gap which needed to be funded from a planned one-off use of reserves and provisions</p> <p>Additionally in 2014/15 a number of pressures have emerged which were larger than envisaged when the 2013/14 budget was set. These have led to an estimated directorate level overspend of over £10 million, which is partly mitigated by contingency budgets.</p>	<p><b>Amber</b></p>

Area of focus	Summary observations	RAG-Rating
<b>Scope of the MTFP and Links to Annual Planning</b>	The medium term financial plan presented to the July meeting of the PAC brings together the annual budget for 2014/15 and the links to medium term to 2014/18.	<b>Green</b>
<b>Review process</b>	The Council keeps its medium term financial plan up to date. The most recent iteration of the plan was presented to the Public Accounts Committee in July 2014.	<b>Green</b>
<b>Responsiveness of the Plan</b>	<p>The Council keeps its plans and assumptions up to date. It carried out a Strategic Financial Review undertaken in July 2013, and updated it in November 2013.</p> <p>The plan is constantly being developed and updated as the Lewisham Futures Programme Board develops the detailed plans for future savings.</p> <p>The medium term financial strategy recognises the uncertainty over future position and sets out a number of scenarios, including a worst case scenario.</p>	<b>Green</b>

# Financial Governance

Area of focus	Summary observations	RAG-Rating
<b>Understanding of the financial environment</b>	<p>Management has a good understanding of the scale of the financial challenge facing the Council. The Chief Executive and all Executive Directors sit on the Lewisham Futures Programme Board, which has a high profile within the Council.</p> <p>At the time of writing the Lewisham Futures Board is still developing its proposals, which have yet to be formally adopted by Council members.</p>	<b>Green</b>
<b>Executive &amp; Member Engagement</b>	<p>The Council's Members exercise robust challenge over all of the key financial reports which are presented to them, including items such as the approval of the annual budget. The 2014/15 budget was presented to Mayor and Cabinet and the minutes indicate it received an appropriate level of challenge. This resulted in several amendments to the draft Budget before it was passed to Full Council for approval.</p> <p>Mayor and Cabinet also receive Financial Monitoring updates, where significant variances from budgets are challenged and explanations are obtained where required.</p> <p>Local elections were held on May 22nd. While there was some turnover of members this has not affected the Council's direction or the level of engagement from members. New Members received an appropriate level of induction training.</p>	<b>Green</b>

Area of focus	Summary observations	RAG-Rating
<b>Overview for controls over key cost categories</b>	<p>The Council has good controls in place around the reporting of key cost categories. When finance reports are provided to Mayor and Cabinet, they provide a detailed breakdown of how each of the Council's Directorates are performing. Included within this are details of the specific over and underspends within each of these Directorates, which allows Members to understand the specific issues identified. For example, at the end of September 2013, the Customer Services Department was forecasting an overspend of £1.5m. This was due to a number of items, including a shortfall in income received from Pay and Display Parking, additional expenditure incurred due to slippage on a restructure of the Strategic Housing Service, and several other issues.</p> <p>Analysis by Directorate is a feature of all of the Council's financial reporting, including when considering the level of savings which are going to need to be made over the coming years. Given these directorates have remained unchanged over recent years, it allows comparisons to be made on a relatively straightforward basis in terms of year-on-year performance.</p>	<b>Green</b>
<b>Budget Reporting (Revenue &amp; Capital)</b>	<p>The Council's Financial Performance is overseen by the Mayor &amp; Cabinet, who receive regular updates on the current financial position.</p> <p>Finance reports are clearly set out and comprehensive, with an appropriate level of narrative description and context. They include revenue and capital budgets, performance by Directorates, current financial performance and projections. Reports also include other relevant financial information including collection rates for council tax and NNDR.</p>	<b>Green</b>
<b>Adequacy of other Committee Reporting</b>	<p>The Audit Panel and the Public Accounts Committee also discuss the Council's financial performance. Our audit has not identified any concerns with the work of these committees.</p>	<b>Green</b>

# Financial Control

Area of focus	Summary observations	RAG-Rating
<b>Budget setting &amp; monitoring - revenue &amp; capital</b>	<p>The Council has a good track record of meeting its financial targets without drawing on reserves.</p> <p>It continued this good track record in 2013/14, making a surplus of £1.8 million, while adding to its revenue reserves.</p> <p>However the financial position is becoming more stretched. A balanced budget has been set for the 2014/15 budget, but the Council has needed to budget for the use of £3 million reserves and provisions in the year, while additional savings and efficiencies are identified.</p> <p>In addition, the latest budget reports show that the Council is projecting an overspend at Directorate level of £10.2 million in 2014/15.</p>	<b>Amber</b>
<b>Savings plans setting &amp; monitoring</b>	<p>The Council has a good track record of identifying and achieving efficiencies and savings, having delivered £82m of savings between May 2010 and 2013-14.</p> <p>The Council recognises that savings of £95 million between 2014 and 2018 will require changes to the way it provides services. The Lewisham Futures Programme Board is tasked with developing and implementing proposals.</p> <p>2015/16 has the potential to be a tipping point for the Council's finances. The Council estimates that £38.3 million of savings will be needed. To date management have identified proposals totalling around £27 million for 2015/16. At the time of writing these were still to be formally agreed with members and made public.</p> <p>In addition to this senior officers have been carrying out a zero based budgeting exercise and have identified further potential savings areas, some of which are within the £27 million quoted above, with an additional £4 million of proposals still in the development stage.</p> <p>The Council has given priority to the financial position and is following an appropriate process to deal with it. However given the scale of the challenge and the short timescales there remains a risk that the Council will not be able to identify and implement a full £38 million of recurring measures.</p> <p>The Lewisham Futures Board is aware of the risk and has considered what mitigating measures may be called on in 2015/16 to enable a balanced budget to be set and delivered.</p>	<b>Amber</b>

# Financial Control

Area of focus	Summary observations	RAG-Rating
<p><b>Key financial accounting systems</b></p> <p>Page 254</p>	<p>Internal audit have reviewed the key financial systems during the year and gave substantial or significant assurance over those systems. The only system to receive limited assurance was Property, Plant and Equipment, which is largely undertaken as a year end exercise.</p> <p>We have raised similar issues in our audit. We also raised issues over reconciliations in particular between the payroll system and the general ledger. The Council has acknowledged this as an issue and agreed to review its reconciliations for 2014/15.</p> <p>We have also raised concerns about the Council's systems for producing grant subsidy claims.</p> <p>The Council is currently updating its financial ledger to the shared One Oracle ledger update. The upgrade had previously been delayed several times because of concerns over its security and functionality, which we understand have now been addressed. As this is happening currently we are not able to comment on the controls operating in this system.</p> <p>On balance we are satisfied that the information produced by the majority of the Council's systems is accurate, and can be produced in a timely manner.</p>	<p><b>Green</b></p>
<p><b>Finance department resourcing</b></p>	<p>As part of the Council's on-going savings programme the finance department has been subject to a significant reorganisation. This has resulted in a reduction in posts (including the number of Principal Accountants reducing from 14 to 9) and reallocation of responsibilities.</p> <p>During our audit we noted this has had some impact on the capacity of the Department, in that there are fewer officers and some accountants were carrying out their responsibilities for the first time. We also noted that some key tasks, in particular reconciliations, were not being carried out.</p> <p>Overall we conclude that the reorganisation has been carried out in a controlled manner with responsibilities being reallocated to appropriate officers. The Council should continue to seek assurances that it retains the capacity to carry out its statutory accounting responsibilities.</p>	<p><b>Green</b></p>

# Financial Control

Area of focus	Summary observations	RAG-Rating
<b>Adequacy of Internal audit arrangements</b>	<p>During 2013/14 the Council's Internal Audit function was outsourced to Baker Tilly, who were overseen by the Head of Corporate Resources and Internal Audit Contract Manager, who are both Council employees.</p> <p>The Council had previously raised significant concerns about the performance, timeliness and quality of Baker Tilly's work. As a consequence Baker Tilly has now resigned as the Council's internal auditor. The service has now been brought back in-house.</p> <p>This creates a risk in terms of the Council's capacity to deliver an in-house internal audit service, particularly in specialist areas such as IT audit where the Council may lack the technical expertise. To address this the Council is buying in additional audit capacity from other London councils including Greenwich.</p> <p>The Council's internal audit service is in a transitional period and because of this we have rated this with an "amber" rating. The Council intends to obtain an independent assessment of its new internal audit arrangements.</p>	<b>Amber</b>
<b>Internal audit conclusions</b>	<p>We issued an unqualified opinion on the Council's accounts and on its pension fund accounts in 2012/13.</p> <p>During 2013/14 to date we have raised some concerns and report points including:</p> <ul style="list-style-type: none"> <li>• the Council's approach to reconciliations;</li> <li>• Its arrangements for producing grant subsidy claims; and</li> <li>• Its arrangements for obtaining and accounting for asset valuations.</li> </ul> <p>Overall however we conclude that a 'green' rating is appropriate.</p>	<b>Green</b>
<b>Assurance framework/risk management processes</b>	<p>We attend all meetings of the Audit Panel where the Assurance framework and risk management are discussed. We have not noted any issues that would impact on our value for money conclusion.</p>	<b>Green</b>

Page 255

# Prioritising Resources

Area of focus	Summary observations	RAG-Rating
<b>Leadership and challenge in prioritising resources</b>	<p>The Council recognises the scale of the financial challenge. The drive to achieve a sustainable financial position is led by the Chief Executive, who has established the Lewisham Futures Programme Board, with a remit to challenge the way Lewisham provides its services. The Chief Executive has also established a programme of zero based budgeting reviews to scrutinise the existing budget base lines and challenge the executive team.</p>	<b>Green</b>
<b>Better Care Fund</b>	<p>The Council has exhibited good practice in its planning for the Better Care Fund and has positive relationships with the Clinical Commissioning Group. Senior Management have met regularly with the CCG to engage in constructive dialogue in developing plans that should achieve the aims of the fund.</p> <p>The health and wellbeing board monitors progress with the Better Care fund and has representation from health partners.</p>	<b>Green</b>
<b>Consultation with key stakeholders</b>	<p>From our on-going review of minutes and meetings with council officers we have not identified any concerns against this criteria. The Council plans to consult with staff and unions on savings proposals.</p>	<b>Green</b>

# Improving Efficiency & Productivity

Area of focus	Summary observations	RAG-Rating
<b>Understanding impact and outcome of decisions</b>	The Council considers the impact of its savings proposals on front line services. Previous savings rounds have focussed on back office savings, however there is a recognition that future savings plans will affect service provision. There is a process of consultation before the Council implements its proposals.	<b>Green</b>
<b>Understanding costs</b>	<p>Then Audit Commission produces comparative data (VFM profiles) for English councils, which show costs are above average for the Council's adult social care services.</p> <p>The Council recognises this is an area of higher cost. In the thematic reviews of the Lewisham futures Board the Council has identified £25 million as a target for potential savings by 2018 (entitled "deeper working between health and social care").</p> <p>This is an extremely challenging aspiration. For 2015/16 the Council has identified £6 million of proposals towards this target. At the time of writing these have still to be formally agreed with staff and Members.</p>	<b>Amber</b>
<b>Systems and Data quality</b>	In our audit we have not noted any significant concerns with the quality of the Council's IT systems or in the quality of its data.	<b>Green</b>
<b>Delivery of Savings and service re-design</b>	<p>The Council has strong examples of service redesign from its on-going process of achieving efficiency savings.</p> <p>The Lewisham Futures programme contains the Thematic review to save £12 million through shared service arrangements. There are no firm proposals underpinning this target, although the Council is considering a number of options.</p> <p>The Council recognises that this will probably be the most difficult of the thematic reviews to achieve.</p>	<b>Green</b>
<b>Effectiveness of key services</b>	From our audit we have not noted any concerns with the quality and effectiveness of the Council's services.	<b>Green</b>

# Management of Natural Resources

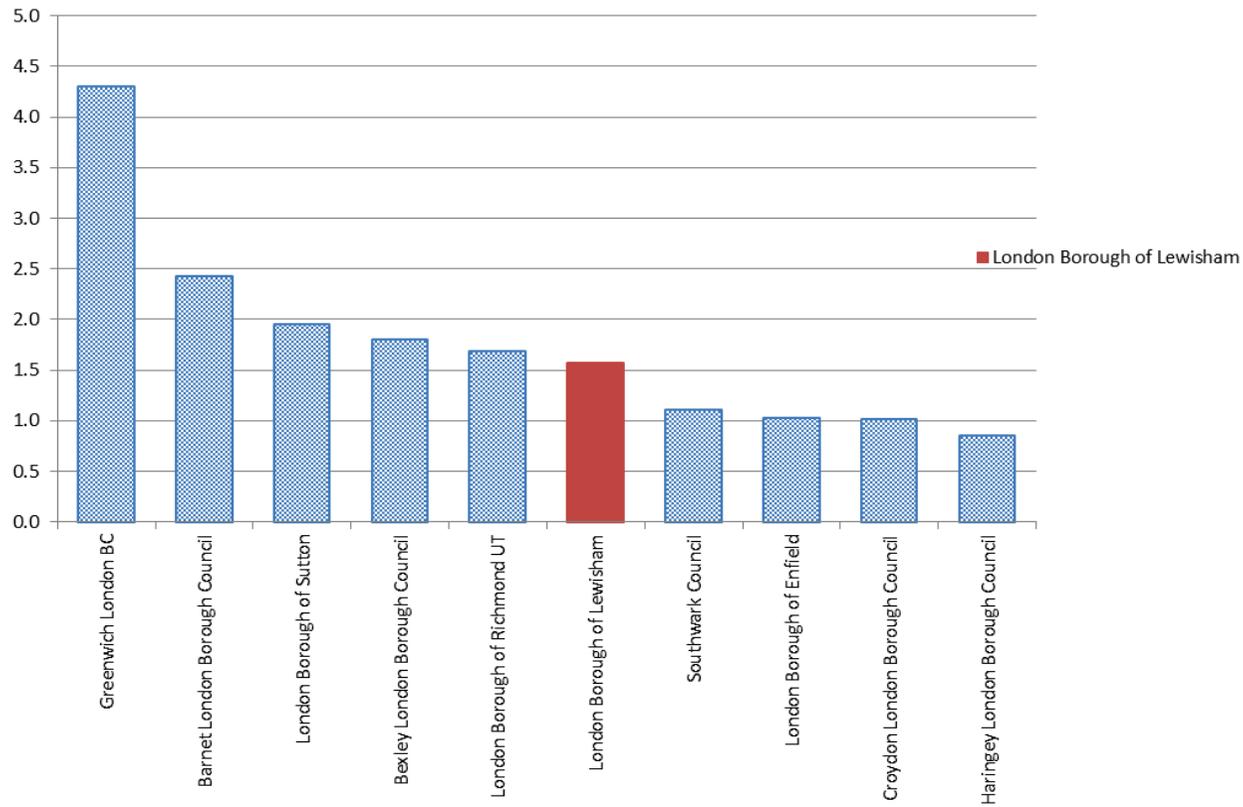
Area of focus	Summary observations	RAG-Rating
<b>Management of Natural Resources</b>	<p>The Council is pro-active in considering its management of natural resources. The Council has a Carbon Reduction and Climate Change Strategy in place, which sets out the targets which it is looking to achieve in respect of reducing Carbon omissions, and how it is looking to achieve these reductions. Whilst no specific reports are produced in respect of natural resources, one of the Council's 10 overarching priorities is 'Clean, Green and Liveable', and performance against this priority is monitored on a monthly basis within the Management Performance Report. Against this priority, there are a number of performance indicators, including items such as the level of waste recycled, which thus allows the Council to see how it is performing in respect of environmental issues throughout the year.</p> <p>Also, all of the decisions made by the Council are reviewed for their environmental impact, and should any decision appear to be having a negative impact on the environment, then adequate mitigations would be put in place.</p>	<b>Green</b>

# Appendix 1 – Benchmarking

## Our approach

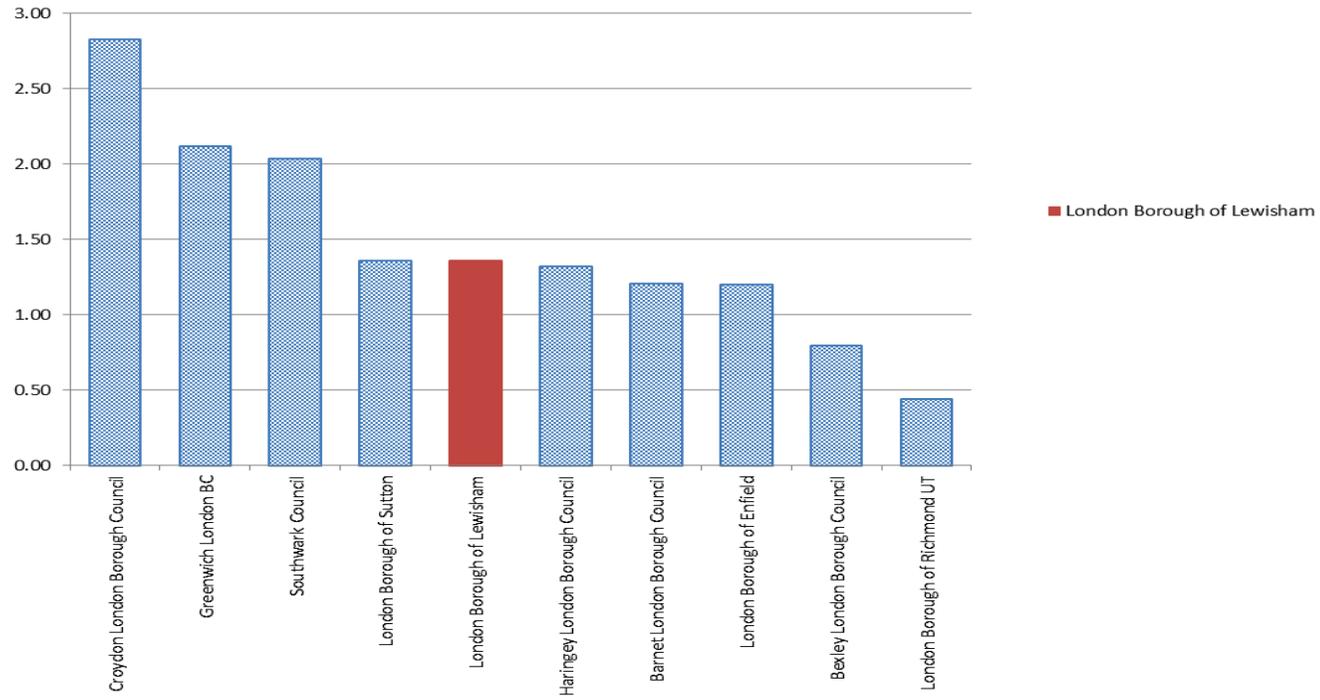
We have compared your draft (unaudited) financial statements to those of other London councils to obtain the following comparisons.

### Working Capital ratio - 2013-14



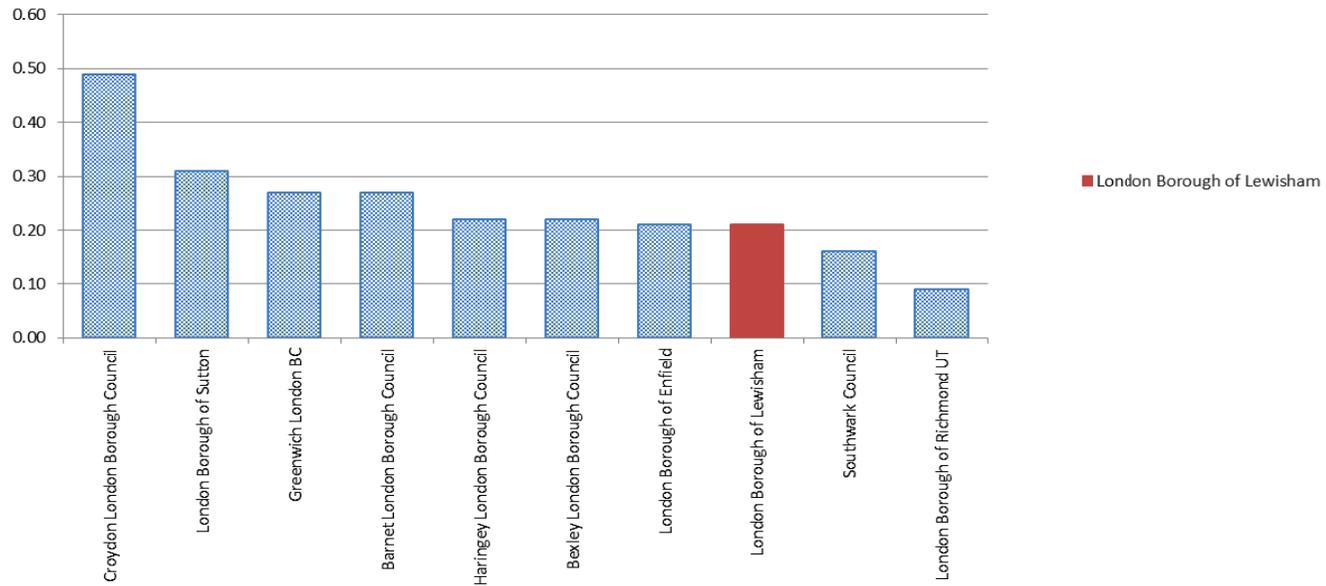
# Appendix 1 – Benchmarking

### Long Term Debt to Tax Revenue ratio - 2013-14



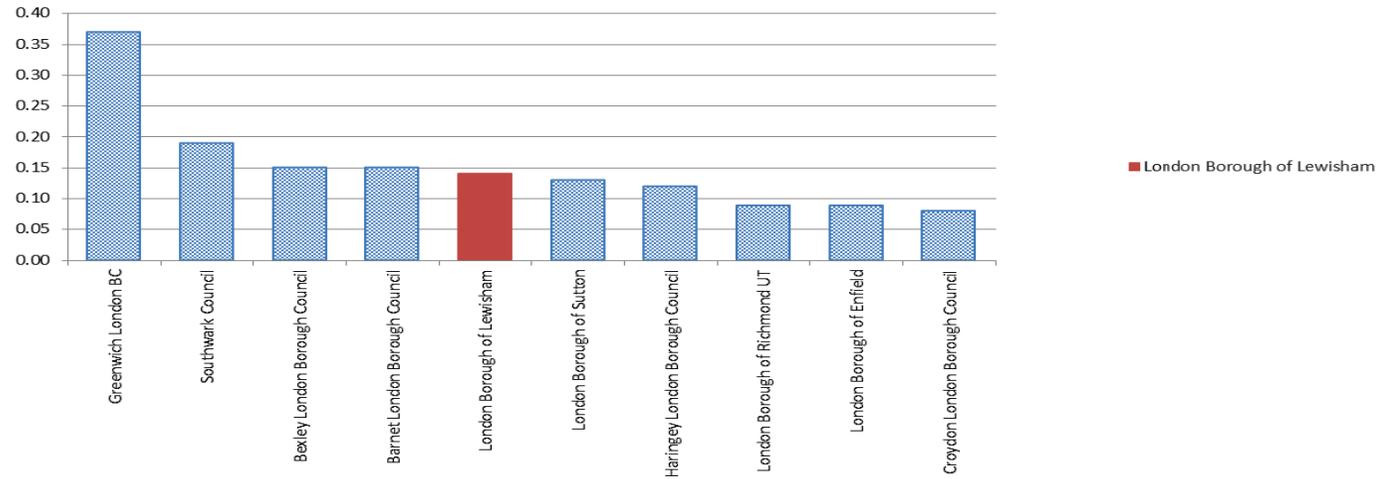
# Appendix 1 – Benchmarking

### Long Term Debt to Long Term Assets ratio - 2013-14



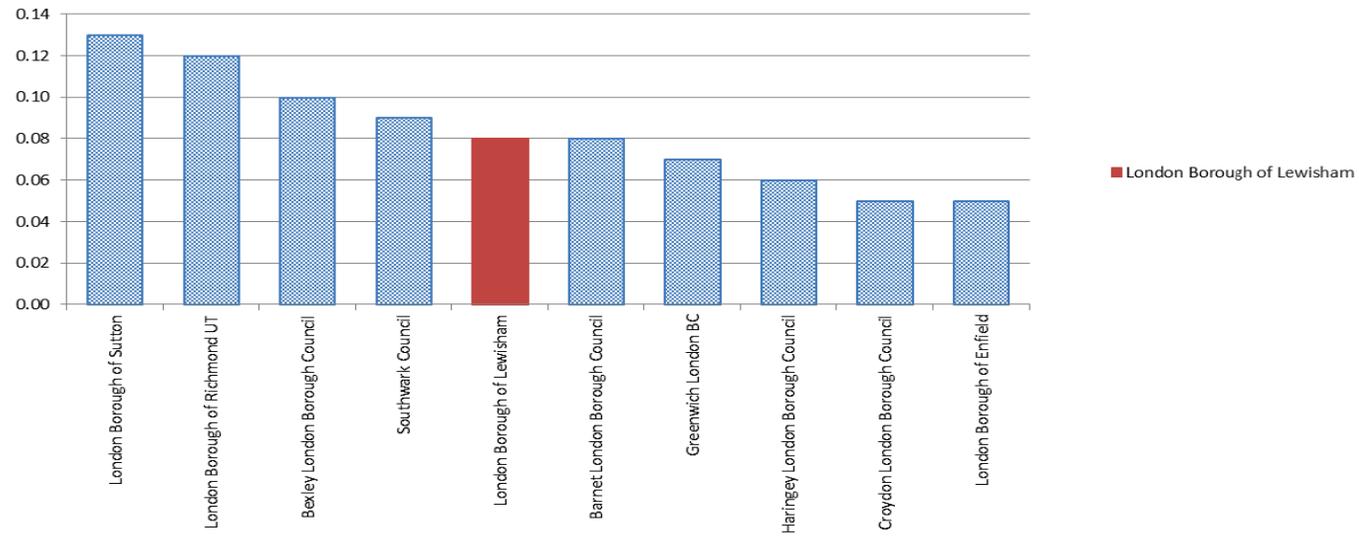
# Appendix 1 – Benchmarking

Usable Reserves to Gross Revenue Expenditure ratio - 2013-14



# Appendix 1 – Benchmarking

Schools Balances to Dedicated Schools Grant ratio - 2013-14





© 2014 Grant Thornton UK LLP. All rights reserved.

'Grant Thornton' means Grant Thornton UK LLP, a limited liability partnership.

Grant Thornton is a member firm of Grant Thornton International Ltd (Grant Thornton International). References to 'Grant Thornton' are to the brand under which the Grant Thornton member firms operate and refer to one or more member firms, as the context requires.

Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by member firms, which are not responsible for the services or activities of one another. Grant Thornton International does not provide services to clients.

[grant-thornton.co.uk](http://grant-thornton.co.uk)

# Agenda Item 8

COUNCIL		
<b>Report Title</b>	Planning Obligations Supplementary Planning Document 2014 – draft for public consultation	
<b>Key Decision</b>	Yes	Item No.
<b>Ward</b>	All	
<b>Contributors</b>	Head of Planning & Head of Law	
<b>Class</b>	Part 1	Date:17 September 2014

## 1. Summary

- 1.1 The report seeks the formal resolution of the Council to consult on the draft Planning Obligations Supplementary Planning Document 2014 (the SPD), in accordance with the Lewisham constitution and planning regulations. When adopted the 2014 SPD will replace the 2011 version of the SPD and form part of the Local Development Framework, providing guidance on how planning obligations are used to promote sustainable development and deliver the infrastructure necessary to support the growth of residential, business and visitor populations. The SPD was reported to Mayor and Cabinet on 16<sup>th</sup> July 2014 and subsequently scrutinised by the Sustainable Development Select Committee. As a result of feedback from Scrutiny it is proposed to make some minor amendments to the SPD, details of which are set out in section 7 of this report and as track changes to the SPD included as appendix 1 to this report.

## 2. Purpose

- 2.1 To provide full Council with the information needed to approve the draft Planning Obligations SPD for public consultation.

## 3. Recommendation

- 3.1. The Council is recommended to approve the draft Planning Obligations SPD for public consultation in accordance with the Statement of Community Involvement.

## 4. Policy Context

- 4.1 The SPD will form part of the Council's Local Development Framework (LDF).
- 4.2 The role of the SPD is to explain and elaborate on the policies in the Lewisham Core Strategy (part of the LDF) in relation to planning obligations. The LDF forms part of the Councils policy framework.
- 4.3 The full policy context is set out in the report to Mayor and Cabinet dated 16<sup>th</sup> July 2014 which is set out as appendix 2 to this report.

## **5. Background**

- 5.1 Members will be aware that the Planning Service has prepared a number of development plan documents that set out the town planning strategy and policy for the borough over the next 10-15 years. This includes the Core Strategy and a number of supporting Local Plans. The SPD is used to explain and elaborate on the implementation of policy in the existing Development Plan. It does not set out any new policy and must be consistent with the policies in the Development Plan including the Core Strategy and the London Plan. The relevant local, regional and national policies are listed in the SPD under the individual topic areas.
- 5.2 Planning regulations set out the form and content of local plans and the process to be followed for adoption. In summary, in preparing a local plan the local planning authority must consult certain named bodies and organisations including local residents and local business about the proposed content of the local plan and take any representations received into account when preparing the local plan.
- 5.3 The existing Planning Obligations SPD was adopted in 2011. Since then, the policy context has changed especially with the introduction of the National Planning Policy Framework, and changes to the London Plan 2011 and the development of the Council's own Local Development Framework including the Core Strategy that sets the Council's policy on planning obligations.
- 5.4 The Community Infrastructure Levy (CIL) was introduced by the Government in April 2010 and has since been amended by further regulations in 2011, 2012 and 2014. The CIL is a levy that local authorities can choose to charge on new developments in their area. The money generated is to be spent on infrastructure that is required in the local authority which may include roads and other transport needs, parks, schools, sports centres, emergency services and community facilities.
- 5.5 The Council has been developing a CIL charging schedule that has been placed before Mayor and Cabinet and Full Council at each stage of its development over the past 3 years. In January 2014 the draft charging schedule was approved without changes at an independent Examination in Public. It is proposed that the draft charging schedule be submitted to Mayor and Cabinet and Full Council early in 2015, seeking approval to adopt CIL as of 1st April 2015.
- 5.6 The adoption of a CIL charging schedule has an impact on Planning Obligations. The Council is not allowed to charge developers for the same infrastructure through both CIL and Planning Obligations, therefore the adoption of a CIL charging schedule will result in a reduction in the scope and application of Planning Obligations.

5.7 Given the changing policy context and the introduction of CIL, amendments are required to the SPD. The intention is to adopt an amended SPD to work in conjunction with the Council's CIL before the adoption of CIL.

## **6. The Planning Obligations SPD draft for consultation**

6.1 The draft SPD sets out how planning obligations will be used to promote sustainable development and deliver the infrastructure necessary to support the growth of the residential, business and visitor populations. The SPD takes into account the overall, cumulative impact of development on the borough, and explains how this will be dealt with through the use of planning obligations to mitigate the direct and cumulative impacts of developments.

6.2 In particular, the SPD seeks to:

- Identify the range, scale and form of planning obligations likely to be sought;
- Identify the types of development likely to require planning obligations;
- Identify the protocols for negotiating contributions;
- Identify how planning obligations are secured and monitored;
- Minimise the need for detailed negotiations for each planning application;
- Streamline the process by which planning obligations are secured and implemented; and
- Ensure an efficient, consistent, accountable and transparent process

6.3 The first section of the SPD provides an introduction to the SPD itself, an outline of the policy context for seeking planning obligations and an overview of the Council's approach to securing planning obligations.

6.4 The following sections of the SPD set out in detail the justification and policy basis for requiring each type of planning obligation for each of the topic areas listed below and the form in which they should be provided:

- Affordable housing
- Non-strategic transport
- Public realm
- Environmental protection
- Local labour and business
- Employment floorspace
- Carbon offsetting
- Flood alleviation
- Professional, legal and monitoring fees

- 6.5 For clarity, it should be noted that the following topics are not included in the SPD, as they are subject to the CIL charge:
- State education facilities
  - Public health care facilities
  - Strategic transport enhancements (excluding site-specific, highways and public transport matters needed to make developments acceptable in planning terms, which may include matters on site, regarding access to the site or off site where the need for such works is identified in a transport assessment or travel plan)
  - Publicly accessible open space, allotments and biodiversity
  - Strategic flood management infrastructure
  - Publicly owned leisure facilities
  - Local community facilities (including (but not limited to) community centres and halls and libraries, but excluding places of worship).
- 6.6 The final section of the SPD sets out the general principles for securing planning obligations and frequently asked questions about planning obligations.
- 6.7 The SPD, whilst setting out formula based approaches for some of the topic areas covered, has been developed in a way that provides some flexibility in decision making. This will allow planning officers to consider the site specific impacts of proposed developments and the on-site or in-kind provision of facilities, before considering the need to secure off-site provision or financial obligations. The SPD clearly states that obligations will only be secured for those items that cannot be addressed as part of the development itself or through planning conditions.
- 6.8 A copy of the SPD is included as Appendix 1.

## **7. Changes to the SPD resulting from Scrutiny**

- 7.1 The Sustainable Development Select Committee at its meeting of 17 July 2014 recommended that a small number of changes / clarifications were made before the SPD was consulted upon. The recommended changes are listed below along with the officers response and a description of any amendment made as a result. Appendix 1 to this report is a track changed version of the SPD showing amendments made to accommodate the recommendations:
- The definition of key worker used should be extended beyond the Government definition, to ensure that it covers other key local workers that the Council might wish the definition to include, such as refuse workers, social care workers etc.

Officer response and resulting change to the SPD: Officers have amended paragraph 3.1.61 regarding key workers to include refuse workers and social care workers as examples. Paragraphs 3.1.61 and 3.1.63 allow the Council flexibility to include other key workers should it wish at any future date by publishing a list on it's website. See Appx 1, paragraphs 3.1.61 – 3.1.63.

- Section 3.3.6 should be reworded to better explain what is meant by “intensifying communities”.

Officer response and resulting change to the SPD: This is a grammatical error and has been amended. The sentence now reads “Reducing deprivation is an essential part of developing socially sustainable communities, especially in areas experiencing high density development.”. See Appx 1, paragraph 3.3.6.

- The definition of “public realm” should be explicitly included within the draft document to provide clarity and to avoid confusion with the Council’s own definition of public realm in relation to a cabinet member portfolio.

Officer response and resulting change to the SPD: A definition of public realm has been included in the glossary of the SPD as follows, “Public Realm – This includes exterior places, linkages and built form elements, excluding green open spaces, that are physically and/or visually accessible regardless of ownership. These elements can include, but are not limited to, streets, pedestrian ways, bikeways, bridges, plazas, nodes, squares, transportation hubs, gateways, landmarks and building interfaces.” See Appx 1, page 70.

- In relation to the required financial obligations for the loss of employment floor space and the cost of a trainee; the figure should not be set at £10,000 but should be index linked to ensure that the contribution rises (or falls) as appropriate over the lifetime of the policy.

Officer response and resulting change to the SPD: An additional paragraph has been added as new paragraph 3.4.17, stating “The rate of £10,000 will be subject to indexation in the form of the BCIS index quarterly in order to ensure that it stays appropriate over the lifetime of the policy.”.

## **8. Legal implications**

- 8.1 The Council has adopted its Statement of Community Involvement (SCI) which sets out the minimum consultation that will take place. It is a requirement of a ‘sound’ plan that the standards in the SCI are met.

- 8.2 The power of a Local Planning Authority to enter into a planning obligation with the those parties who have a legal interest in the land within its area is contained within Section 106 of the Town and Country Planning Act 1990 (The Act). Planning obligations made under Section 106 are secured as either planning agreements or unilateral undertakings.
- 8.3 In accordance with the Act, planning obligations may:
- Restrict the development or use of land;
  - Require specified operations or activities to be carried out;
  - Require land to be used in any specified way;
  - Require cash payments to be made;
  - May be either positive, i.e. requiring a person to carry out a specified action, or negative, i.e. restricting the person from developing or using the land in a specified way;
  - May be entered into either by agreement with the Local Planning Authority or by an undertaking by the developer to which the Local Planning Authority is not a party (e.g. unilateral undertakings in appeal cases);
  - Must be entered into by means of a Deed (which can be varied later if necessary by 'Deed of Variation');
  - Must be registered as a local land charge (for the Purposes of the Local Land Charges Act 1975);
  - Run with the land and may be enforced against the person entering into it and against any successors in title; and
  - Can be enforced by means of injunction.
- 8.4 Regulation 122 of the Community Infrastructure Levy Regulations 2010 places additional limitations on the use of planning obligations. A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.
- 8.5 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil

partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

8.6 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

8.7 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

8.8 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

8.9 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

8.10 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It

covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## 9 Conclusion

- 9.1 The Council is asked to agree the draft Planning Obligations SPD for consultation. The consultation will take place in accordance with the planning regulations and will last for a minimum period of 6 weeks. Following this period any representations will be considered in producing a final version of the SPD for approval to adopt.

### Background documents

Short Title Document	Date	File Location	File Reference	Contact Officer	Exempt
<a href="#">Planning &amp; Compulsory Purchases Act 2004</a>	2004	Laurence House	Planning Policy	Brian Regan	No
<a href="#">Local Plan Regulations</a>	2012	Laurence House	Planning Policy	Brian Regan	No

If you have any queries on this report, please contact Brian Regan, Planning Policy, 3rd floor Laurence House, 1 Catford Road, Catford SE6 4RU – telephone 020 8314 8774.

### Appendix 1 Planning Obligations SPD – draft for consultation – with track changes

This can be viewed at:

<http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=138&MId=3290>

Appendix 2 Report to Mayor and Cabinet on 16 July 2014.

This can be viewed at:

<http://councilmeetings.lewisham.gov.uk/documents/s30338/Planning%20Obligations%20SPD.pdf>

<b>Council</b>			
<b>Title</b>	Comments of the Sustainable Development Select Committee on Planning Obligations Supplementary Planning Document – draft for public consultation		
<b>Contributors</b>	Sustainable Development Select Committee	<b>Item No.</b>	
<b>Class</b>	Part 1	<b>Date</b>	17 September 2014

## **1. Summary**

- 1.1 This report informs the Council of the comments and views of the Sustainable Development Select Committee, arising from discussions held on the officer report entitled Planning Obligations Supplementary Planning Document 2014 (the SPD) – draft for public consultation, considered at its meeting on 17 July 2014.

## **2. Recommendation**

- 2.1 The Council is recommended to note the views of the Sustainable Development Select Committee as set out in section three of this referral and agree that the Executive Director for Resources and Regeneration be asked to ensure the suggested amendments are made to the draft before public consultation commences. Council is further recommended to request that a response to the additional suggestion, at 3.3 within this report, be provided in due course.

## **3. Sustainable Development Select Committee views**

- 3.1 On 17 July 2014, the Select Committee considered a report entitled Planning Obligations Supplementary Planning Document 2014 (the SPD) – draft for public consultation.
- 3.2 The Committee recommends that the following changes/clarifications are made before the document is consulted upon:
- The definition of key worker used should be extended beyond the Government definition, to ensure that it covers other key local workers that the Council might wish the definition to include, such as refuse workers, social care workers etc.
  - Section 3.3.6 should be reworded to better explain what is meant by “intensifying communities”.
  - The definition of “public realm” should be explicitly included within the draft document to provide clarity and to avoid confusion with the Council’s own definition of public realm in relation to a cabinet member portfolio.
  - In relation to the required financial obligations for the loss of employment floor space and the cost of a trainee; the figure should not be set at £10,000 but should be index linked to ensure that the contribution rises (or falls) as appropriate over the lifetime of the policy.

3.3 The Committee further recommends that future work should be carried out by officers to explore the various ways in which the required “play space per child” can be effectively delivered using section 106 funds. Specifically, the requirements of “maintenance in perpetuity” of any play space should be clarified, as well as any definitions of what constitutes “play space”. Options for innovative delivery methods of useful play space should be explored – including the potential development and support of indoor play centres provided either by the Council or in partnership with other local organisations.

#### **4. Financial Implications**

4.1 There are no financial implications arising out of this report per se; but there may be financial implications arising from carrying out the action proposed by the Committee.

#### **5. Legal Implications**

5.1 The Constitution provides for Select Committees to refer reports to the Mayor and Cabinet, who are obliged to consider the report and the proposed response from the relevant Executive Director; and report back to the Committee within two months (not including recess).

#### **6. Further Implications**

6.1 At this stage there are no specific environmental, equalities or crime and disorder implications to consider. However there may be implications arising from the implementation of the Committee’s recommendation.

#### **Background papers**

Planning Obligations Supplementary Planning Document 2014 (the SPD) – draft for public consultation. Sustainable Development Select Committee (17 July 2014)

If you have any queries on this report, please contact Salena Mulhere, Overview and Scrutiny Manager (ext. 43380), or Kevin Flaherty, Head of Business & Committee (0208 3149327).

# **Lewisham Planning Obligations Supplementary Planning Document**

## **Draft Planning Obligation Supplementary Planning Document – Consultation Version**

**Draft Consultation Version for Full Council - September 2014**

# TABLE OF CONTENTS

<b>1. INTRODUCTION</b>	<b>1</b>
Background to this Document	1
What are Planning Obligations?	1
What is the Community Infrastructure Levy?	2
How will the Community Infrastructure Levy and Planning Obligations work together?	3
<b>2. LEGISLATIVE AND POLICY CONTEXT</b>	<b>5</b>
Statutory Framework	5
The National Planning Policy Framework (NPPF)	5
The London Plan (July 2011)	5
Further Alterations to the London Plan	6
Mayor of London's Powers	6
Lewisham Sustainable Community Strategy	6
Local Development Framework	7
Infrastructure Planning	7
<b>3. TOPIC AREAS</b>	<b>8</b>
<b>3.1 Affordable Housing</b>	<b>8</b>
Introduction	8
Definition	8
Policy Pointers	9
Justification	9
Development types from which obligations will be sought	13
Method for delivering affordable housing obligations	14
Affordability thresholds for intermediate housing	18
Key workers	19
Wheelchair housing	19
Completion and Availability of Affordable Units	19
Service and management charges	19
Public subsidy	20
Selecting and working with Registered Providers	20
Perpetuity of provision and affordability	21
Nominations for Affordable Housing	21
Other Priorities	21
Financial Review Mechanisms	22
Overage and 'Clawback' Mechanisms	22
Development of Affordable Housing by developers and non-Registered Providers	22
Off-site Provision	22
Hierarchy of affordable delivery	23
Payments in lieu	23
<b>3.2 Wheelchair Housing</b>	<b>25</b>
Background and justification	25
Policy pointers	25
Types of obligation and when they are required	25
Required form of obligations	25
Marketing of units	26
Payment for provision of off-site wheelchair units	27

<b>3.3</b>	<b>Local Labour and Business</b> .....	<b>28</b>
	Background and justification.....	28
	Policy pointers .....	29
	Types of obligation and when they are required .....	29
	Required form of obligations .....	30
<b>3.4</b>	<b>Employment floorspace</b> .....	<b>33</b>
	Background and justification.....	33
	Policy pointers .....	34
	Types of obligations and when they are required .....	34
	Required form of obligations .....	35
<b>3.5</b>	<b>Transport</b> .....	<b>36</b>
	Background and justification.....	36
	Policy pointers .....	36
	Types of obligation and when they are required .....	36
	Plans.....	37
	Required form of obligations .....	37
<b>3.6</b>	<b>Public Realm</b> .....	<b>39</b>
	Background and justification.....	39
	Policy pointers .....	39
	Types of obligation and when they are required .....	40
	Required form of obligations .....	41
<b>3.7</b>	<b>Children’s Play Space</b> .....	<b>43</b>
	Policy pointers .....	43
	Required form of obligations .....	43
<b>3.8</b>	<b>Carbon Offsetting</b> .....	<b>44</b>
	Background and justification.....	44
	Policy pointers .....	44
	Required form of obligations .....	44
<b>3.9</b>	<b>Environmental Protection</b> .....	<b>46</b>
	Background and justification.....	46
	Policy pointers .....	46
	Required form of obligations .....	46
<b>3.10</b>	<b>Flood and Water Management</b> .....	<b>47</b>
	Background and justification.....	47
	Policy pointers .....	47
	Types of obligation and when they are required .....	47
	Required form of obligations .....	48
<b>3.11</b>	<b>Biodiversity</b> .....	<b>49</b>
	Background and justification.....	49
	Policy pointers .....	49
	Types of obligation and when they are required .....	49
	Required form of obligations .....	50
	Overview of Lewisham’s Approach to Planning Obligations .....	50
	Drafting of Legal Agreements.....	51
	Timing of Payments.....	51
	Unilateral Undertakings .....	51
	Indexation of Financial Obligations .....	52

Interest on Late Payments.....	52
On-Site vs Off-Site Provision.....	52
Outline Applications.....	52
Use of Financial Viability Appraisals .....	52
Dispute Resolution .....	54
Monitoring of Planning Obligations.....	54
Wider Regeneration/Improvement Projects .....	54
100% or Mostly Affordable Housing Schemes.....	54
<b>4. PROCEDURE FOR SECURING PLANNING OBLIGATIONS.....</b>	<b>56</b>
<b>5. REVIEW AND MONITORING .....</b>	<b>59</b>
<b>6. PROFESSIONAL, LEGAL AND MONITORING FEES.....</b>	<b>60</b>
Professional Fees.....	60
Legal Fees.....	60
Monitoring Fees.....	61
Variations of Planning Obligations .....	62
<b>7. GLOSSARY .....</b>	<b>63</b>
<b>8. ABBREVIATIONS.....</b>	<b>67</b>
<b>9. APPENDIX – POLICY POINTERS .....</b>	<b>68</b>

# 1. Introduction

## Background to this Document

- 1.1 The London Borough of Lewisham will be subject to a significant amount of development up to 2026, with around 14,000 new residential units planned for the borough, as well as new employment, retail and leisure provision. This level of development is expected to continue beyond 2026 to support London's growth.
- 1.2 New development plays an important role in the vitality of any locality. Whether it is the provision of new homes, employment or recreational facilities, development is essential to provide for our current and future needs. The planned level of growth within the borough, however, will result in increased pressure on local infrastructure, services and facilities and will also create a need for additional provision within the borough.
- 1.3 The purpose of the Planning Obligations Supplementary Planning Document (the SPD) is to provide detailed guidance on the likely type and scale of planning obligations for development proposals in the London Borough of Lewisham, to ensure that the impact of development on infrastructure and services can be adequately mitigated. It also seeks to establish a transparent, fair and consistent process for negotiating, securing and monitoring planning obligations.
- 1.4 In order to fund the infrastructure necessary to support development across the borough the Council is planning to adopt a Community Infrastructure Levy (CIL) in accordance with the CIL Regulations (2010) (as amended). The CIL Regulations limit the use of planning obligations.
- 1.5 It should be noted that the SPD does not attempt to specify all of the planning obligations that may be necessary to mitigate the impacts of every development. Other planning obligations may be required that are not set out in this SPD due to site specific or local circumstances. The exact type and range of planning obligations, which may be sought for an individual site, will depend upon the particular circumstances and development proposed and its impacts upon the local environment, local services and facilities and in accordance with the NPPF and the Community Infrastructure Levy Regulations (2010), (as amended).
- 1.6 When adopted this SPD will replace the Council's adopted Planning Obligations SPD (2011). The SPD will be a material planning consideration for use in guiding and determining planning obligations.

## What are Planning Obligations?

- 1.7 Planning obligations (made under Section 106 of the Town and Country Planning Act 1990, as amended) (S106 agreements), are legal agreements between local planning authorities and developers, or unilateral undertakings made by developers, in the context of the granting of planning permission. They can be both financial and non-financial, and they are used when there is a requirement to address the impact of a development and the impact itself cannot be dealt with through a planning condition on the permission.

- 1.8 Planning obligations can be used to prescribe the nature of development (e.g. by requiring that a given portion of housing is affordable); or to secure a contribution from a developer to compensate for loss or damage (e.g. enhancements to open space); or to mitigate a development's impact (e.g. through increased or improved public transport provision). The use of planning obligations is an effective tool through which the Council will seek to ensure that growth and development, whether individually or cumulatively, meets the objectives of sustainable development as promoted in local, regional and national policies.
- 1.9 Regulation 122 of the Community Infrastructure Levy Regulations provides that from 6th April 2010 it is unlawful for a planning obligation to be taken into account when determining a planning application for a development or any part of a development that is capable of being charged CIL, if the obligation does not meet the following tests:
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.
- 1.10 Planning obligations are local land charges and run with the land. This means that they are intended to be enforceable against the original parties who entered into the agreement or undertaking and in most cases, anyone acquiring an interest in the land after it has been sold or transferred.
- 1.11 Used properly, planning obligations can significantly increase the quality of development. They can secure benefits capable of mitigating the adverse impacts of a development. However, they cannot be used to make a bad application good where, for example, a scheme does not comply with the development plan.

## **What is the Community Infrastructure Levy?**

### **Introduction**

- 1.12 The Community Infrastructure Levy (CIL) came into force in April 2010. It allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The money can be used to fund a wide range of local and strategic infrastructure that is needed to support growth and development in the borough. This includes transport facilities, flood defences, schools and other education facilities, medical facilities, sporting and recreational facilities and open spaces.
- 1.13 CIL is intended to provide developers more certainty up front about how much money they will be expected to contribute towards borough infrastructure needs. CIL takes the form of a charge per square metre of floorspace applied to most new developments that involve an increase of 100 square metres or more of gross internal floorspace or that involve the creation of a dwelling even where this is below 100 square meters. The CIL charges are based on the size and type of the new development. Some developments are exempt from paying the levy such as affordable housing, self build and developments of buildings by charities that are used for charitable purposes.
- 1.14 The CIL charges are set out in a formal document called a 'charging schedule' and charges are index linked and inflated over time.

## **Lewisham Community Infrastructure Levy**

- 1.15 The Council's CIL is expected to become effective on 1 April 2015. The Lewisham CIL will provide funding to help deliver a wide range of infrastructure projects to support new housing and economic growth and benefit local communities. It allows Lewisham to work with infrastructure providers and communities to set priorities for what the funds collected under the levy should be spent on and provides a funding stream so that the delivery of infrastructure projects can be planned more effectively.
- 1.16 The list of projects to be funded by CIL is set out in the Council's Regulation 123 list and the Council will allocate funds to projects to be supported through CIL as part of its capital programme.
- 1.17 Further information on the Lewisham CIL can be found on the Council's website.<sup>1</sup>

## **Mayor of London Community Infrastructure Levy**

- 1.18 In addition to the Lewisham CIL, the Greater London Authority is also a charging authority and the Mayor of London can charge a CIL to help ensure the delivery of local and sub-regional large scale infrastructure. From 1 April 2012 the Mayor of London has been charging CIL to fund strategic transport – this is currently the Crossrail project.
- 1.19 In Lewisham borough the Mayor's levy is £35 per square metre of new development, but with a nil charge for education and health uses.
- 1.20 The Council is required to collect the Mayor's CIL on his behalf, and also to give it priority in calculating the viability of its own CIL and other planning obligations. The Mayor is responsible for spending the Mayoral CIL.
- 1.21 Further information on the Mayoral CIL can be found on the Greater London Authority website.

## **How will the Community Infrastructure Levy and Planning Obligations work together?**

- 1.22 The CIL will largely replace planning obligations as the way in which developments contribute towards funding the new infrastructure necessary to support new development. Once a local CIL has been adopted or by April 2015 (whichever is the sooner) the Council will not be able to pool planning obligations from more than five developments to pay for any one item of infrastructure.
- 1.23 When the Lewisham CIL has been adopted the key principle of our approach will be that planning obligations will be used to address site specific impacts of developments such as local access road or public realm improvements near the site. They may also be used in situations where a developer does not meet planning policy requirements to provide infrastructure on the development site. Planning obligations will be negotiated where items sought are clearly linked to the development site and are needed to make that particular development acceptable. CIL on the other hand will be used to provide the money to fund local and strategic infrastructure required to support growth across the borough.

---

<sup>1</sup> <http://www.lewisham.gov.uk/myservices/planning/applications/community-infrastructure-levy/Pages/default.aspx>

- 1.24 Planning obligations will be used to fund different infrastructure items to those to be funded through CIL, and developers will not be charged for the same items of infrastructure through both planning obligations and CIL. To help clarify this we will publish a list of those infrastructure types for which we will not seek to negotiate planning obligations after Lewisham's CIL has been adopted. This is called a Regulation 123 list and it will contain projects which may be funded partly or wholly by CIL. The list will be based upon the infrastructure projects set out in the borough's infrastructure plan which are required to support growth over the Core Strategy period (2011-2016). It will be kept up to date to take into account any changes in circumstances and/or infrastructure needs identified in future.
- 1.25 Affordable housing falls outside of CIL and will therefore continue to be required through planning obligations.
- 1.26 The CIL Regulations allow authorities to offer CIL relief in exceptional circumstances, subject to specific circumstances. To qualify for the CIL relief the financial cost of complying with the planning obligations must be greater than the CIL charge cost and meeting the cost of CIL and the planning obligations would have to be proven to make the development economically unviable. **The Council has decided not to introduce a CIL Exceptional Relief Policy at the current time, but the impact of the introduction of the CIL and the potential benefits of introducing such a policy will be kept under review.**

**DO WE NEED TO SAY THIS IN A PLANNING OBLIGATIONS SPD, ESPECIALLY AS WE ARE CONSIDERING THA THE COUNCIL DOES ADOPT SUCH A POLICY**

## 2. Legislative and Policy Context

### Statutory Framework

- 2.1. The legislative basis for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990 (as amended), which provides local authorities with the opportunity to enter into Section (S106) agreements to secure planning obligations in connection with the development and use of land and for applicants/land owners to give unilateral undertakings regarding these when making a planning application.
- 2.2. Further statutory provisions are set out in Regulations 122 and 123 of the Community Infrastructure Regulations 2010 (as amended) ('CIL Regulations').
- 2.3. The CIL Regulations place into law for the first time the Government's policy tests on the use of planning obligations. As of 6 April 2010 it became unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following tests:
  - a) Necessary to make the development acceptable in planning terms
  - b) Directly related to the development; and
  - c) Fairly and reasonably related in scale and kind to the development
- 2.4. The above requirement seeks to clearly delineate the different roles that CIL and planning obligations have when used together, to secure the delivery of social and physical improvements and infrastructure required of and to support new development.

### The National Planning Policy Framework (NPPF)

- 2.5. At the national level the National Planning Policy Framework (2012) (NPPF) sets out the Government's economic, environmental and social planning policies for England. Paragraphs 203 to 206 of the NPPF deal with the use of planning conditions and planning obligations. The NPPF reiterates the three tests governing the use of planning obligations in the CIL Regulations, and upholds the long-standing principle that planning conditions are preferable to planning obligations. The NPPF also requires local planning authorities to ensure that policies on planning obligations take account of changes in market conditions over time and, wherever appropriate, are sufficiently flexible to prevent development from being stalled.

### The London Plan (July 2011)

- 2.6. The London Plan (July 2011) provides the strategic context for planning obligations in London, and together with the Council's Adopted Core Strategy (June 2011) is the primary consideration in determining planning applications.
- 2.7. London Plan Policy 8.1 Implementation states that in enabling development, the Mayor of London will work with boroughs and other key stakeholders across sectors to ensure the effective development and implementation of the Community Infrastructure Levy.
- 2.8. Policy 8.2 Planning Obligations states that the Mayor of London will provide guidance on the preparation of frameworks for negotiating obligations in DPDs and the

aspiration that there is a voluntary system of pooling contributions for the provision of facilities related to proposed developments. The policy also sets out that development proposals should address strategic as well as local priorities through planning obligations, and that affordable housing and the funding of Crossrail and other public transport improvements should be given the highest priority. Climate change, learning and skills, health facilities and services, childcare provision and the provision of small shops should also be given priority.

- 2.9. Policy 8.3 Community Infrastructure Levy states that the Mayor of London will work with Government and other stakeholders to ensure effective development and implementation of CIL and will prepare guidance for boroughs setting out a clear framework for its application. The focus of this is to ensure that the necessary infrastructure to deliver the policies of the plan, such as Crossrail, can be delivered.

## **Further Alterations to the London Plan**

- 2.10. The Mayor of London published a consultation draft further alterations to the London Plan in January 2014. The proposed amendments to Policy 8.2 (Planning Obligations) include the inclusion of air quality and social infrastructure as matters which should be given priority in the consideration of planning obligations.

## **Mayor of London's Powers**

- 2.11. It should also be noted that the Mayor of London has the discretion to determine planning applications of strategic significance. This includes consideration of any planning obligations relating to those strategic applications the Mayor decides as Planning Authority. On strategic applications that the Mayor decides, boroughs are statutory consultees and conversely, for those strategic applications that boroughs decide, the Mayor is a statutory consultee.

## **Lewisham Sustainable Community Strategy**

- 2.12. The Sustainable Community Strategy (2008 – 2020) focuses on key challenges to reduce inequality and social exclusion within Lewisham's communities and between Lewisham and the rest of the country. It sets out objectives under the following themes:
- Ambitious and achieving – where people are inspired and supported to fulfil their potential
  - Safer – where people feel safe and live free from crime, antisocial behaviour and abuse
  - Empowered and responsible – where people are actively involved in their local area and contribute to supportive communities
  - Clean, green and liveable – where people live in high quality housing and can care for and enjoy their environment
  - Healthy, active and enjoyable – where people can actively participate in maintaining and improving their health and well-being
  - Dynamic and prosperous – where people are part of vibrant communities and town centres, well connected to London and beyond

- 2.13. All of the Council's activities and policies are guided by, and should be consistent with, the objectives and priorities set out in the Lewisham Community Strategy.

## Local Development Framework

- 2.14. Lewisham Council's Local Plan currently comprises the Core Strategy (adopted June 2011), Site Allocations Local Plan (adopted June 2013) and the Lewisham Town Centre Local Plan (adopted February 2014). The Council is also developing two further documents to complete the Local Plan. The Development Management Local Plan (DMLP) is due to be adopted in late 2014, while the Catford Town Centre Local Plan is awaiting submission to the Planning Inspectorate for its examination-in-public.
- 2.15. The Core Strategy sets out the spatial planning framework for the development of the borough over the next 15 years. It is a strategic document that provides the broad strategy for the scale and distribution of development and for the provision of supporting infrastructure.
- 2.16. The Development Management Policies, the Site Allocations Local Plan and the Lewisham and Catford Town Centre Local Plans are aimed at achieving development that delivers the vision and objectives set out in the Core Strategy to bring forward sustainable development.
- 2.17. Core Strategy Policy 21 sets out the following in relation to planning obligations:
- 'The need to provide infrastructure, services and/or facilities to address the impact of new development will be considered by the local planning authority from the outset of the planning application process.
  - The Council will seek planning obligations in accordance with Circular 05/05 to ensure effective implementation of the Core Strategy.
  - The Council will prepare a Planning Obligations Supplementary Planning Document to provide further guidance on the likely type, scale and priority of planning obligations and the methodology for calculating formula based obligations, where it is appropriate to do so.'
- 2.18. A number of DMLP policies refer to the use and application of planning obligations in relation to issues such as town centres, wheelchair housing, air quality management and community facilities. The town centre local plans contain details of planning obligation priorities for the key development sites and each town centre.

## Infrastructure Planning

- 2.19. The Council has produced an Infrastructure Delivery Plan (IDP) to assess the requirements for a range of physical, social and green infrastructure that may be needed over the 15 plan period up until 2025/26. The IDP looks at the current and planned supply of, and the likely demand for, such infrastructure if the forecast for population growth is achieved. The use of planning obligations will assist in the delivery of that infrastructure.

## 3. Topic Areas

### 3.1 Affordable Housing

#### Introduction

- 3.1.1. The provision of housing is a key priority and pressure for the borough. The Council is seeking to create socially-mixed communities with a greater choice of housing, in order to meet the needs of Lewisham's diverse community. The provision of affordable housing to meet the existing and future housing needs of residents who cannot afford market housing is particularly important in Lewisham, given the high levels of deprivation, the lower than average household incomes and the high market housing prices experienced in the borough.
- 3.1.2. This section provides guidance on securing affordable housing as an integral part of development in Lewisham.

#### Definition

- 3.1.3. The main types of affordable housing promoted by the Council are set out in the 'Method for Delivering Affordable Housing Obligations' section below. For the purposes of this document, the definition of 'affordable housing' as contained in Annex 2 of the National Planning Policy Framework (NPPF) will apply:

*'Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.'*

- *Social rented housing is owned by local authorities and Private Registered Providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.*
- *Affordable rented housing is let by local authorities or Private Registered Providers of social housing to households who are eligible for social rented housing. Affordable rent is subject to rent controls that require no more than 80% of the local market rent (including service charges, where applicable).*
- *Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can be shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.*

*Homes that do not meet the above definitions such as low cost market housing may not be considered as affordable housing for planning purposes'.*

- 3.1.4. Definitions, consistent with the NPPF, are also provided in regional and local policy.
- Policy 3.10 and paragraph 3.61 of the London Plan

- Appendix 6 of the Core Strategy
- Appendix 5 of the Development Management Local Plan (DMLP).

## Policy Pointers

- 3.1.5. For a summary of the national, regional and local planning policy context, see Appendix 1.

## Justification

- 3.1.6. When dealing with affordable housing it is important to recognise from the outset the unique nature of the borough in terms of its population, deprivation, housing stock, incomes, house prices and housing affordability. An overview of each of these characteristics is provided below, using data taken from:

- 2011 Census
- 2012 ONS Mid Year Population Estimate
- ONS 2011 Neighbourhood Statistics
- 2012 Ethnic Group Projections
- 2010 Index of Multiple Deprivation
- 2012 GLA Population Projections
- 2012 GLA Ward Profiles
- 2012 Land Registry Data
- 2012 NOMIS Official Labour Market Statistics
- 2013 London Labour Market Indicators
- 2014 Lewisham Affordable Rent Study.

- 3.1.7. **Population** In 2011 Lewisham had 275,900 residents, representing an 11% increase since 2001. This level of growth reflects London's growth as a whole and was greater than had been previously anticipated. The borough's population is projected to grow by 23% to 339,776 residents by 2041. Lewisham has a younger population than London as a whole, with approximately 20% of residents aged 0-14, 70% aged 15-64 and 10% aged 65 and over in 2012. Lewisham also has a highly diverse and vibrant community both ethnically and culturally. In 2012 48.5% of residents were of black and ethnic origin and this will rise to 57.7% by 2041.

- 3.1.8. **Deprivation** Some of the borough's most successful communities are also some of its most deprived. In 2010 Lewisham was ranked as the 31st most deprived local authority in England. 38% of Lewisham's lower super output areas (LSOAs) (census counting areas) were in the 20% most deprived LSOAs in the country. There is a range of indicators that point towards Lewisham having high levels of deprivation. In 2011 life expectancy at birth for males (78 years) and females (83 years) were slightly lower in Lewisham than England (79.2 and 83 years respectively). Conversely, in 2012 childhood obesity levels (11.2% of 4-5 year olds and 24.4% of 10-11 year olds) in Lewisham were higher than England (9.4% and 19% years respectively).

Deprivation relating to crime is widespread, with 60% of the LSOAs in the borough being in the 20% most deprived LSOAs nationally in 2010 in regard to crime levels. In

2013 Lewisham's unemployment rate was 9.9%, and the rate of claimants for Job Seekers Allowance exceeds the London average. In particular there is a disproportionate impact on young people (16-24 years) of unemployment, with some wards experiencing 22.6% compared to London's 6.9% in 2012.

- 3.1.9. **Housing stock** Lewisham's housing stock housed 116,091 households in 2011, of which 26% were single people living on their own. Purpose built flats are most common (35.7%) form of dwelling, followed by terrace houses (28.2%). 43.6% of dwellings are owner-occupied or in shared-ownership, 31.1% are social rented and 24.4% are privately rented, compared to London (56.5%, 26.2% and 15.5% respectively). Private renting has almost doubled from 13.1% in 2001 to 24.3% in 2011. In terms of the values of dwellings, there is also significantly more housing in the lower Council Tax bands A-C and significantly less in the higher bands.
- 3.1.10. **Incomes** In 2012 the average gross earnings per household in Lewisham was £594 per week. Lewisham's gross average annual pay, at £26,000, was lower than London's average of £30,000. Importantly, a quarter of Lewisham's residents earn £15,349 or lower per year.
- 3.1.11. **House prices** Despite being lower than London as a whole, house prices in Lewisham have recovered well since the recession and have once again reached the peak seen in 2008. By August 2013, average house prices rose to £296,559 and the house price index increased to 400. Average house prices also vary across the borough, ranging from £194,236 in the south to £415,757 in the north.
- 3.1.12. **Housing affordability** The average house price to income ratio is 7.91, making it difficult for local residents to buy a home in the borough. Barriers to housing affordability are apparent. In 2010 89.2% of the LSOAs (encompassing areas within every ward) fell within the 20% most deprived and 19.9% of the LSOAs fell within the 10% most deprived. With average house private rents of £415 per week, renting takes up a significant proportion of residents' incomes. The monthly average rental value in 2014 varies from £927 for a 1-bedroom flat to £1,995 for a 4-bedroom house and values differ between postcodes.

If 33% of residents' gross incomes were used to pay for their rents, the percentage of residents who would be able to afford 80% market rent (as per the HCA guidelines for the 'market rent' permutations of social housing) varies from 48% for a 1-bedroom flat to 12% for a 4-bedroom house. Conversely, for families consisting of 4 children in a 4-bedroom house that are reliant upon benefits, rents at 80% of market rent level would comprise 73% of their gross income.

- 3.1.13. To summarise, population growth coupled with lower than average earnings and an under-supply in both market and affordable housing has led to high housing costs beyond the reach of many residents. Furthermore, the benefits of inward investment do not always reach existing residents and often private housing developments are not accessible to local residents in housing need.

The Lewisham Affordable Rent Study emphasised that affordability will be an increasing concern for larger households, including those in work and those who are affected by the housing benefit cap. Consequently there is a need to ensure that Lewisham borough contributes to achieving the overall London Plan affordable housing targets, but doing so in a manner that responds to the significant and high level of need for affordable housing in the borough, especially social rented units and affordable family homes. This section provides local level guidance on the provision of affordable housing that is tailored towards addressing this local level need.

- 3.1.14. The guidance in this section also takes into account the established and robust evidence base that already exists. At the regional level the London Strategic Housing Market Assessment (SHMA) (2013) identified a net requirement for around 49,000

new homes per year in London, of which 48% is needed as market housing, 20% as intermediate housing and 32% as social/affordable rented housing. In terms of unit sizes, 34% is needed as 1-bedroom units, 18% as 2-bedroom units, 26% as 3-bedroom units and 22% as 4-bedroom units. The Homes for London: London Housing Strategy 2014 and the Mayor's Housing Covenant 2015-18 Programme seek a mix of 60% rented homes and 40% intermediate (shared ownership). For the affordable rented units that are supported by the Mayor of London, half of the units should be lower-capped rents of no more than 50% of local market rents inclusive of service charges, and targeted at those most in need. Half should be discounted rents of no more than 80% of the market rent, prioritised for working households.

- 3.1.15. At the sub-regional level the South East London SHMA (2010), prepared on behalf of the London Boroughs of Southwark, Lewisham, Greenwich, Bexley and Bromley, identified a net requirement for 23,100 additional dwellings over the next five years, with a high requirement for 4+ bedrooms and the need for 71% to be provided as social rented housing. The initial findings for the 2014 South East London SHMA show that housing prices and population growth in Lewisham have increased the most, compared to the other South East London boroughs.

To meet newly arising and backlog need, approximately 1,144 affordable dwellings will be needed in Lewisham each year, half of which should be provided as intermediate housing. Whilst a full mix of unit sizes will be needed, the largest demand will be for 2-bedroom intermediate units and family-sized 3 bedroom social/affordable rent units. However, to address the current levels of under-occupation and over-crowding, largest demand will be for 2-bedroom intermediate units and 1-bedroom social/affordable rented units.

- 3.1.16. At the local level the Lewisham Housing Market Assessment (2009) identified a net requirement of 6,775 dwellings over a five year period, with approximately 80% required as affordable housing. The Lewisham Affordable Housing Viability Study (2009) concluded that an affordable housing target of 50% of dwellings is justified, based on medium-term projections of a recovery in the local housing market.
- 3.1.17. The Lewisham Annual Monitoring Report 2012-2013 identified that 564 net new affordable units were completed in 2012-13 and that they were mostly concentrated in the north of the borough. They provide a mix of unit sizes and types with 27% 1-bedroom dwellings, 48% 2-bedroom dwellings and 25% 3- or more bedroom dwellings. 96% were new build units and 89% were flats. However, the affordable housing completions form only 31% of the total completed housing and thus fall short of the 50% target. The social/affordable rent to intermediate ratio of 57:43 also falls short of the target ratio of 70:30.
- 3.1.18. The Lewisham Affordable Rent Study (2014) found that rent values vary across the borough and that target rent levels currently equate to 50% or less of the market rent. The housing stock in only 25% of the postcodes in the borough falls within the desired affordability threshold (i.e. no more than 33% of gross income spent on housing) for 2-bedroom units at 80% market rent, whilst for 3-bedroom units 65% market rent is needed to meet affordability threshold and 50% is needed for 4-bedroom units.

Affordability will be an increasing concern for larger households including those in work and those affected by the benefit cap. In particular, there will be a significant reduction in residual income for unemployed families with three or more children, if they move from target rent to affordable rent at 80% of market rent.

- 3.1.19. The evidence presented above, when considered alongside the unique factors in the borough, strongly emphasizes the need for affordable housing in the borough. The Council will be looking at development schemes to ensure that the affordable housing

proposals do not exacerbate the inability of local residents in housing need to be able to access new homes.

3.1.20. Affordable housing also sits within a regional and local policy framework, namely the National Planning Policy Framework, London Plan policies 3.9-3.13, the London Housing Strategy, Funding Prospectus: Mayor's Housing Covenant, Core Strategy Policy 1, DM Policy 7 in the Development Management Local Plan and the Lewisham Housing Strategy. A number of overarching principles arise from this policy framework, including:

1. Helping to significantly boost the supply of high quality affordable housing and contribute to an average of 13,200 net new affordable homes per year in London. The FALP are proposing to increase this to 17,000.
2. Providing affordable housing to meet the objectively assessed current and future needs for the area, as identified in the SHMA, having regard to local incomes, land and house prices, population trends and the strategic and local needs of different groups within the local community.
3. Providing affordable housing where the site is capable of providing 10 or more homes, with a preference for providing affordable units on site.
4. Seeking the maximum provision of affordable housing on a case-by-case basis, taking into account individual site circumstances. The starting point should be 50% affordable homes that will in turn contribute to an overall strategic target of 50% across the borough.
5. Providing the right mix of housing to underpin successful and vibrant neighbourhoods, with a mixed and balanced tenure and a wide choice of housing options. In areas with high existing concentrations of social rented housing, introduce a more balanced social mix by providing a higher percentage of intermediate housing.
6. Providing a mixed tenure with 70% social/affordable rented units and 30% intermediate units, thereby helping people on low or middle incomes to move into home ownership.
7. Giving priority to affordable family housing, with a target of 42% of the units provided as family dwellings (3 or more bedrooms). Delivering family sized affordable homes, as well as increasing the supply of small affordable homes will help to tackle overcrowding and enable people to downsize.
8. Providing affordable units that take account of viability and are subject to a financial viability assessment. A balance needs to be demonstrated between providing affordable housing that is genuinely affordable to local residents in housing need and ensuring that schemes are viable and can be delivered.
9. Ensuring affordable housing is effectively managed in a cost-efficient way and that units remain at an affordable price for future eligible households.

3.1.21. The guidance in this section builds upon these overarching principles. The Council will expect development schemes to incorporate affordable housing in a manner that is compatible with the overarching principles listed above.

## **Development types from which obligations will be sought**

### **General**

- 3.1.22. In accordance with the London Plan, the Council will implement the affordable housing requirements set out in this SPD on sites of 10 units or more.
- 3.1.23. In order to prevent the underdevelopment of sites, the affordable housing requirement will be sought on sites that are capable of yielding the 10 unit threshold, whether or not the 10 unit threshold has been triggered. Where the Council considers that a site has been artificially subdivided in order to avoid the application of the affordable housing policy, the Council will investigate the ownership of each site to determine whether the ultimate holding company or owners are the same. Where possible, the Council will apply the affordable housing policy across the entire site.
- 3.1.24. Where there is an increase in the number of residential units on a site at a later date, then the affordable housing policy will be applicable if the increase in the number of units takes the total to 10 or more units and the guidance within this document will be applicable to all affordable dwellings.
- 3.1.25. In the event that planning permission is granted for a mixed-use scheme, and a subsequent application seeks to vary a use from a non-residential element to residential use, this will trigger a reassessment of the requirement for affordable housing to be provided on the site.

### **Specialist housing**

- 3.1.26. The London Plan requires that specialist housing for people with specific housing needs, including sheltered housing for the elderly, should be provided for, in line with local needs. The Council's Local Plan also supports proposals for special needs housing to meet the needs of specific groups across all tenures and income groups.

### **Specialist housing for older people**

- 3.1.27. Proposals for sheltered housing and extra care homes are subject to other residential policies. This means that the affordable housing policies will be applied to schemes that fall over the threshold. Where the Council receives a planning application for a market sheltered housing scheme or extra care scheme the Council will confirm whether or not there is a need for affordable accommodation of this type. If there is, the required amount of affordable housing will be sought as sheltered or extra care accommodation on-site. If there is no identified need for affordable housing of this type, the applicant will be required to provide general needs or other forms of affordable supported housing on site, through re-design exercises if necessary.

### **Student housing**

- 3.1.28. Genuine student housing will not be required to provide a proportion as affordable housing. In accordance with the London Plan (paragraph 3.53) the Council will secure student housing through the planning agreement or a condition to be robustly secured for students in perpetuity, otherwise it will be subject to the requirements of the affordable housing policy. Proposed future changes to student housing provision will be subject to the same requirements.

## Hotels

- 3.1.29. The Lewisham Development Management Local Plan states that *'Proposals for hotels will need to demonstrate that a hotel operator will be identified and secured prior to the commencement of the development.'* The Council consider that genuine hotel development is not required to provide additional affordable housing, whilst speculative development that is not considered as deliverable as a hotel by the Council may be subject to affordable housing.

## Method for delivering affordable housing obligations

### Affordable housing targets

- 3.1.30. The London Plan (2011), the Mayor's Housing Supplementary Planning Guidance (2012) and the Lewisham Core Strategy (2011) state a strategic affordable housing target of 50%. That target is supported by the Council's Local Housing Market Assessment and Affordable Housing Viability Assessment. In order to achieve the 50% strategic target the Council will use this as a starting point for negotiations subject to any site specific issues including financial viability.
- 3.1.31. The proportion of affordable housing will be calculated on the total number of units provided and rounded to the nearest whole number (with 0.5 being rounded up). However if the scheme proposes to provide a high proportion of affordable family units (defined as units with three or more bedrooms), the affordable housing requirement can be measured using habitable rooms, in accordance with the Mayor's Housing SPG (2012).
- 3.1.32. Ultimately the proportion of affordable housing will be determined by the Council:
- On a site by site basis;
  - On identified evidence of local need; and,
  - Taking into consideration the financial viability of the development.
- 3.1.33. Where the quantum or type of affordable housing for delivery requires negotiation due to the influence of the three factors identified above, the Council will expect such negotiations to be undertaken early in the pre-application planning process, in particular in relation to the potential receipt of grant funding (from the Government, the Mayor of London, or other sources). Where discussions would be assisted by the inclusion of a Registered Provider, applicants should speak to the Council, which has a good relationship with many local Registered Providers and may therefore be able to assist in identifying a suitable partner. Further advice on Registered Providers can be found later in this section.
- 3.1.34. The Council understands that financial viability can affect the ability of a development to deliver affordable housing to meet policy targets. Guidance regarding Financial Viability Appraisal is available in Section 4.

### Securing affordable housing

- 3.1.35. Planning obligations and affordable housing will be secured through a legal agreement under Section 106 of the Town and Country Planning Act 1990. Applicants are advised to agree heads of terms for a S106 agreement with the Council. The following details will usually be referred to within the legal agreement:
- Number, location, size and tenure of the affordable units;

- Standards which the affordable housing will meet;
  - Availability of units in perpetuity; and
  - Completion timing and availability of affordable units in relation to market units
- 3.1.36. Whenever possible any Registered Provider associated with the delivery of the affordable units will be expected to be party to the Section 106 (S106) agreement.
- 3.1.37. Applicants are required to submit a 'Planning Obligations Statement' with their planning application. The Planning Obligations Statement should include the timing of the expected delivery of the affordable housing units, the mix of affordable housing tenures, how the affordable housing will be delivered and managed, and the levels of affordable rent.

### **Dwelling size and mix**

- 3.1.38. Providing housing of appropriate sizes to meet the needs of the borough is important in creating better and healthier places. The borough's needs will not be served through the provision of a large number of units designed to cater for single people or couples, as this will result in an under supply of much needed family housing. Conversely, the provision of predominantly family housing would make it more difficult for young and single people to stay in the borough and for those impacted by Welfare Reform to down size.
- 3.1.39. The dwelling size and mix should link directly to the London Housing Strategy, the Lewisham Core Strategy, the Strategic Housing Market Assessment and the Lewisham Housing Strategy.
- 3.1.40. Studio units are not suitable for affordable housing as they do not meet the borough's needs for this type of housing. Because of this, developments that provide solely studio units will not be accepted as affordable housing provision. However, studio units do generate a requirement for affordable housing, just like any other size of unit if they are part of a development of 10 or more residential units.
- 3.1.41. The Council recognises that different sites may pose different design challenges in terms of providing larger family accommodation. However, even in blocks of flats the Council considers that good quality family housing can be provided, particularly at ground floor and 1st floor levels with access to private gardens, balconies, terraces or other communal amenity space. In accordance with the Core Strategy, the Council will ensure that 42% of the affordable housing provided within developments have three bedrooms or more.
- 3.1.42. The need for family accommodation in Lewisham is greatest within the social rented sector and therefore the Council will ensure that 16% of any intermediate housing provided has three or more bedrooms and the remainder (to meet the 42% overall) should be provided within the social rented accommodation component of the development.
- 3.1.43. Some proposed developments may have too few affordable housing units to allow for a mix of unit sizes. In these circumstances, the size of the affordable housing units required should have one more bedroom than the majority of the units in the development. For example, if the majority of units have two bedrooms then the affordable housing units should have three bedrooms.

## **Tenure mix**

- 3.1.44. A key characteristic of a mixed and balanced community is the variety of housing particularly in terms of tenure and price, and a mix of different households such as families with children, single person households and older people.
- 3.1.45. As a starting point for negotiations, social/affordable rented units will be the main tenure required and will account for up to 70% of the affordable housing provision with the remaining 30% provided through intermediate tenures. These targets are considered appropriate as they:
- Conform to the needs identified in the Strategic Housing Market Assessment;
  - Respond to the greatest amount of need (rented housing) whilst still enabling balanced and sustainable developments; and
  - Reflect the historic and current policy position in the Council's Local Plan which has been shown to be viable and deliverable since it was adopted.
- 3.1.46. In areas where there is a high concentration of social/affordable rented housing, for instance in the south of the borough, the Council may, at its absolute discretion, accept a slightly higher percentage of intermediate housing than the borough wide target of 30%. The Council will advise applicants if such a departure from policy is appropriate, and if so it will be at the Council's discretion.
- 3.1.47. Ultimately, the Council will determine tenure mix:
- On a site by site basis.
  - By the area of the borough in which the site is located; and
  - By evidence of need in the housing market assessment.
- 3.1.48. On some schemes, it may be impractical to split the affordable housing into social/affordable and intermediate tenures and it may be more practical to provide only one type of affordable housing tenure. On such sites, the Council will require that all of the affordable housing is provided as social/affordable rented housing, in order to address the significant need for this type of housing in the borough.

## **Affordable rent**

- 3.1.49. Policy 7 in the Development Management Local Plan provides guidance on providing affordable rented housing. Evidence has shown that in Lewisham affordable rent levels that are set at 80% of market rent levels will be unaffordable for many local residents in need of, and eligible for, affordable housing. In reality individual schemes usually contain homes at a range of affordable rent levels, including some at or around the Council's target rent level. Hence, DM Policy 7 and its justification text does not prescribe rigid rent levels but instead seeks that they be set on a case by case basis, taking into account:
- maximising affordable housing output whilst complying with other Core Strategy policies
  - meeting the full objectively assessed affordable housing needs
  - ensuring provision remains affordable for future eligible households, and
  - the location within the borough, the area's tenure mix and site characteristics.

3.1.50. Development schemes that provide affordable rent will be supported by the Council where they:

- comply with Core Strategy Policy 1 and DM Policy 7 of the Development Management Local Plan
- create a balance between maximising affordable housing delivery whilst meeting the full range of housing needs. This includes giving first priority to people on the Common Housing Register and providing homes that they can genuinely afford (with no more than 33% of household income spent on housing costs), and
- can demonstrate that ownership of affordable rented homes will be transferred on completion to an approved Registered Provider or other Council approved body.

3.1.51. The Lewisham Affordable Rent Study (2014)<sup>2</sup> looked at local market rents across the borough, average incomes and benefit levels of different sized families and the ability of local residents in housing need to meet affordable rents up to 80% of the market value. It found that there are issues regarding the affordability of larger properties in the borough, especially for those people who are affected by the housing benefits cap, as only people in employment are able to claim housing benefit to support higher affordable rent levels. It also found a disproportionate impact on larger unemployed families, given the benefit cap of £500 per week regardless of family size. It recommends that affordable rent levels be tailored to meet the needs of local residents in housing need including ensuring that larger unemployed families have some affordable housing options.

Specifically, the study identified the appropriate levels of affordable rent in Lewisham that can be considered as affordable to local eligible people, and recommended the following range of affordable rent levels:

- 1-bedroom units should be provided at 80% of the market rent or local housing allowance (LHA)
- 2-bedroom units should be provided at 70-80% of the market rent or LHA
- 3-bedroom units should be provided at 65% of the market rent or LHA to cater for larger working families. Furthermore, a proportion of the 3-bedroom units should be provided at 50% of the market rent (capped rent) in order to cater for families in most housing need
- 4-bedroom units should be provided at 50% of the market rent (capped rent).

3.1.52. The Council's website will be regularly updated to show current estimates of market rent, target rent levels and the LHA.

3.1.53. The Council agrees that, without constraining the ability of development schemes to provide affordable housing, rent levels should reflect the range of rent levels listed above. Furthermore, these rent levels should be applied across the borough, without differentiating between different areas, as market value will vary on a site by site basis with pockets of high value in most areas.

3.1.54. The Council will use this range of rent levels as the starting point in individual scheme negotiations and development schemes should strive to comply with the rent levels identified above. The exact mix of rent levels should be determined as part of an independent financial viability assessment (with the costs borne by the applicant). If site circumstances dictate that a development scheme should deviate away from

---

<sup>2</sup> <http://www.lewisham.gov.uk/myservices/planning/policy/LDF/evidence-base/Pages/housing.aspx>

these rent levels, reasons as to why such a mix of rents is not possible and/or viable should be provided as part of the planning application.

- 3.1.55. The rent levels assessed as appropriate in the financial viability assessment will be secured in the Legal Agreements signed as part of the planning permission, and the Council will seek to ensure that the rent levels determined at the time of planning approval are retained at those levels on occupation.
- 3.1.56. In some circumstances rents will need to be at levels that enable movement for decant households or downsizers, therefore developers should always agree rent levels with a Registered Provider and the Council at the earliest opportunity (preferably at pre-application stage) and in accordance with any other housing strategy or policies.

### Affordability thresholds for intermediate housing

- 3.1.57. The London Plan sets income limits for intermediate housing. These are based on average household incomes and average house prices across the whole of London. The Council has undertaken a SHMA and HMA and considers that it is appropriate to provide income thresholds that reflect local circumstances. The SHMA has been updated in 2014 and these figures incorporate its findings.
- 3.1.58. The maximum income levels that would allow households to qualify for intermediate housing are detailed in Table 3.1.1 below. These are upper thresholds.
- 3.1.59. Intermediate accommodation should be affordable for rent or purchase by households where the average total gross household annual income does not exceed £36,795 in respect of all 1-bedroom dwellings, £42,663 in respect of all 2-bedroom dwellings, and £59,810 in respect of all 3-bedroom or larger dwellings (i.e. row 4 in Table 3.1.1).

**Table 3.2 – Household Income Thresholds**

	1 bedroom	2 bedroom	3-bedroom or larger
1. Cost of private housing in lowest quartile <sup>3</sup>	£180,480	£237,047	£357,074
2. Annual household income required to purchase private housing <sup>4</sup>	£51,565	£67,727	£102,021
3. Annual household income range for affordable rental housing <sup>5</sup>	Up to £22,026	Up to £22,026	Up to £22,026
4. Annual household income range mid-point for intermediate housing (mid point of 2 and 3).	£36,795	£42,663	£59,810

- 3.1.60. These figures will be increased (or decreased) annually in accordance with changes in income levels and house prices in the borough.
- 3.1.61. Affordability for shared ownership units should be established according to current HCA guidance. Total housing costs (including mortgage, rent and service charges)

<sup>3</sup> SELHP Housing Market Bulletin Table 5d – Lower Quartile prices in South East London (and Lambeth) by ward, housing type and size, October 2013

<sup>4</sup> Assumes 3.5 x gross income multiplier (in line with HCA calculator).

<sup>5</sup> SHMA 2014

should not exceed 40% of net household income. Net household income is assumed to be 74% of gross household income.

## **Key workers**

- 3.1.62. A key worker is someone with a job in an essential public service. Key workers include, but are not limited to national health staff, teachers, police, social workers, occupational therapists, educational psychologists, planners, refuse workers, social care workers and military personnel. These workers are needed to provide key services to the public whether in the public or the private sector.
- 3.1.63. Key worker housing is usually provided as intermediate housing, however the definition of intermediate housing relates primarily to affordability and not to the employment status of the individual members of a household. Key workers may be eligible for either social housing or intermediate housing depending on their household income and circumstances. An appropriate amount of affordable housing should be made accessible to key workers to ensure that they are able to live and work within the borough.
- 3.1.64. In some cases the Council may seek to secure a specific percentage of key worker housing within the overall tenure mix of the affordable housing units. The Council will use the Government definition of 'key worker' unless there are specific shortages of key workers within the borough which the Council would make publicly known via its website.

## **Wheelchair housing**

- 3.1.65. The Council will expect a minimum of 10% of all housing including the affordable housing to be capable of easy adaptation to the South East London Housing Partnership Wheelchair Homes Design Guidelines (October 2011) or any successor version of this document.
- 3.1.66. For further details regarding the provision of wheelchair housing see Section 3.2.

## **Completion and Availability of Affordable Units**

- 3.1.67. The Council expects to see the affordable housing component of developments to be delivered as quickly as possible. On development sites the Council will therefore seek to secure the completion and transfer of the affordable housing units prior to the first sale or occupation of dwellings to be sold on the open market or rented privately. The market dwellings to be occupied in advance of completed affordable housing being transferred to an RP will be a maximum of 50% of the units. For phased development this will be 50% of the units per phase.

## **Service and management charges**

- 3.1.68. Affordability of service charges is important on all affordable tenures and some may be ineligible for housing benefit. The Mayor of London's Supplementary Planning Guidance sets out that 'housing is affordable in that rents are no greater than target rents as set by Government for local authority and housing association and co-operative tenants. Service Charges should not be so great as to make a tenancy unaffordable for a household with an income of less than £16,900 on the basis of rents and service charges not exceeding 30% of net household income.' The new Affordable Rent tenure, as introduced in the 2011-15 GLA Investment period includes

service charges in the total rent figure as a percentage of the market rent. This may not be achievable on all schemes, however, where it is not achievable, charges should be kept to a minimum and discussed in detail with the Council.

- 3.1.69. The imposition of high maintenance costs and high services charges could affect the overall affordability of affordable units. Therefore the developer should aim to ensure that the services and management charges of the affordable units are affordable and to keep costs down where possible, without compromising high quality design.
- 3.1.70. The RP partner will be able to provide advice on acceptable levels of service charge and whether there is scope to reduce charges through design. Consideration can also be given to the services the charge will cover and whether it is appropriate for some of the services to be made available to occupiers of the market housing only.
- 3.1.71. If service charges exceed the affordable amount for tenants in social rented housing, the developer should reduce them to affordable levels through the provision of an endowment to subsidise charges on an on-going basis. The Council may consider other methods of reducing service charges, at its own discretion.

### **Public subsidy**

- 3.1.72. Only affordable housing providers that are accredited by the Homes and Communities Agency (HCA) and GLA are able to apply for public subsidy. The Council's role is to inform the GLA whether it supports an application for public subsidy based on it meeting strategic priorities.
- 3.1.73. The Council will support the use of Social Housing Grant to maximise the provision of affordable housing in the borough. The Council will use the GLA Development Control Toolkit (or another suitable appraisal model) to determine whether a scheme requires grant and to demonstrate 'additionality'. If grant funding is required although not secured from the GLA, the Council may consider the inclusion of a 'cascade mechanism' on either the level or the tenure mix of affordable housing required, to ensure the overall viability of the scheme. Cascade mechanisms will only be used in exceptional circumstances and only where the need for grant is supported by a financial viability appraisal.
- 3.1.74. On occasion the Council might not support grant funding to schemes. The Council will only support schemes that meet the current and future GLA and Council's standards for residential development standards.
- 3.1.75. As the Council cannot guarantee that RPs will be able to secure grant funding on schemes coming forward for development, this should be taken into consideration in viability appraisals at the early stages of the planning application process. Thus the onus is on the developer to ensure that a scheme is economically viable without the need for securing grant funding. Grant funding, if available, will be used to provide affordable housing additional to that can be provided through development value alone.

### **Selecting and working with Registered Providers**

- 3.1.76. The Council has established good relationships and working arrangements with a number of Registered Providers (known as 'preferred RPs') that operate effectively in partnership with the Council to provide affordable housing that meets local housing need. The Council encourages developers to meet their affordable housing obligations by forming partnerships with the Council's preferred RPs following discussions with the Council. Early dialogue between applicants, the Council and any potential RP can help to ensure that the scheme is acceptable to all parties.

- 3.1.77. Early involvement of an RP can also help to provide clarity on the prospects for grant funding as programmes vary from partner to partner according to their agreement with the GLA. The Council will not support grant funding for schemes if applicants choose an RP that is not one of the Council's preferred partners and has not been discussed with the Council.
- 3.1.78. If Registered Providers (RPs) come forward as the 'lead' applicants for the development of schemes, RPs will be treated in the same way as other applicants in relation to the quality of the scheme required, meeting the relevant policies and any necessary planning obligations.

### **Perpetuity of provision and affordability**

- 3.1.79. The Council requires affordable housing delivered through planning obligations to be kept available for initial and subsequent occupiers. In practice, this means that the affordable housing will be required to be retained as affordable in perpetuity.
- 3.1.80. In order to ensure that the affordable housing is retained as affordable in perpetuity, applicants will be required to grant a freehold or long lease of the units to an RP. A long lease is defined for this purpose as having a minimum of 125 years.
- 3.1.81. The only exception to this requirement is shared ownership units where the owner has 'staircased' to 100% of the property value. In these cases, the Council will ensure the provision of new affordable housing by requiring the RP to ring-fence the proceeds of any staircasing for use within the borough or the South East London sub region (i.e. The London Boroughs of Bexley, Bromley, Greenwich, Lewisham and Southwark).

### **Nominations for Affordable Housing**

- 3.1.82. The Council will require nomination rights to all housing secured through Planning Obligations. A standard form of nomination agreement is available from the Council on request and the applicant will be responsible for ensuring that any Registered Provider acquiring the completed affordable housing units enter into an agreement with the Council. The standard form shall be amended as necessary to comply with any requirements of the South East London Regional Housing Strategy (for further details go to [www.selondonhousing.org](http://www.selondonhousing.org)).
- 3.1.83. The applicant will be required in the S106 agreement to ensure that an RP enters into a nomination agreement with the Council, in the form prescribed above. The Council will require that any agreement it enters into will conform with the requirements of its choice-based lettings scheme.

### **Other Priorities**

- 3.1.84. In exceptional circumstances, the Council may review levels of affordable housing and/or the tenure mix of the affordable housing. These special circumstances include occasions when achieving other Council priorities are considered to outweigh the full affordable housing obligation or the 70/30 tenure split of social rent to intermediate housing. There may be circumstances where a scheme delivers exceptional community benefits over and above the standard planning obligations required. In these exceptional circumstances, the Council may (at its discretion) review the levels of affordable housing required on the site if it is satisfactorily demonstrated that there is a need for the proposed facilities. A financial appraisal will also be required to demonstrate that the required levels of affordable housing can not be provided.

- 3.1.85. Applicants are strongly encouraged to discuss such proposals with the Council at an early stage. To inform these discussions the Council will require evidence that demonstrates the need for such facilities and that their provision does not have a significant adverse impact on the financial viability of the development.

### **Financial Review Mechanisms**

- 3.1.86. Major sites that are delivered through a series of phases over a period of several years may be able to make a greater contributions to the borough's affordable housing requirements as market values increase over time. The borough will therefore seek to secure delivery of these sites by negotiating flexible S106 agreements that will require the applicant to review the economic viability of their developments periodically. On outline schemes to be delivered over a number of phases, it is likely that the Council will require the applicant to update their financial appraisal upon the submission of each successive reserved matters application. If sales values have increased to an extent that the quantum of affordable housing can increase in a later phase above the agreed minimum contribution, additional units will be required in that phase.

### **Overage and 'Clawback' Mechanisms**

- 3.1.87. The Council may also secure an 'overage clause' within the associated S106 agreement in circumstances where the full provision of affordable housing in line with the relevant policy is not possible due to financial viability.
- 3.1.88. The overage clause will require the applicant to make additional payments to the Council to represent any uplift in value between the date of the financial appraisal and the date of the completion of the development or the disposal of the completed development.
- 3.1.89. The maximum sum sought by the Council will be the cash equivalent to the percentage of affordable housing not provided as part of the development raised in line with inflation. Any payment due under an overage clause will be made to the Council in order to provide additional affordable housing within the borough.

### **Development of Affordable Housing by developers and non-Registered Providers**

- 3.1.90. The Council's preference is for affordable housing to be owned and managed by Registered Providers. However, it recognises that some applicants are investment partners of the GLA, and the Council may consider the provision of affordable housing by such bodies. The Council would expect any housing not developed by an RP to be managed by an RP on the Council's preferred list, or another RP agreed in consultation with the Council.
- 3.1.91. The Council generally discourages the provision of shared equity housing by applicants who are not investment partners or the inclusion as affordable housing of any shared equity schemes not funded by the GLA.

### **Off-site Provision**

- 3.1.92. The Council's preference is for affordable housing to be provided on-site. Off-site provision misses the opportunity for creating mixed and balanced communities and will only be considered in exceptional circumstances, where the Council is satisfied

that the preferred unit mix and tenure of affordable housing could not be provided on-site.

- 3.1.93. If off-site provision of affordable housing is acceptable to the Council, the applicant would be required to identify suitable sites for it within the borough. These are:
- located in areas where there is not a pre-existing high level of social rented housing;
  - within the same geographical area as the principal site; and
  - either owned by the developer or under some form of option to purchase, so that the Council can be assured that the site is available for development.
- 3.1.94. The Council would either require the applicant to demonstrate that the secondary site has planning permission; or to submit an application for the off-site affordable housing at the same time as the application for the principal site. The provision of affordable housing off-site should not result in being economically advantageous for the developer. In line with the London Plan, applicants should demonstrate that they could provide a greater contribution towards affordable housing off-site and/or benefit the community more than could have been achieved through on-site affordable housing. An example is the provision of family-sized units off-site that could not have been provided on site. The Council will ultimately determine on a site-by-site basis whether provision of affordable housing units off-site is the most appropriate solution.
- 3.1.95. Off-site provision may be acceptable if it would enable affordable housing provision that is more appropriate to identified needs to be met, and where the project is deliverable prior to the on-site market development being completed. In cases where it is appropriate for a developer to provide units on an alternative site, the Council will expect to see the required level of affordable housing across all sites concerned. This will usually result in a higher percentage of affordable housing provision on the alternative site. The Council will expect the affordable housing to be delivered prior to the occupation of the private housing. This will be secured through an appropriate clause in the legal agreement.

### **Hierarchy of affordable delivery**

- 3.1.96. For all types of affordable housing it is preferable to the Council for developers to, wherever possible, make direct provision without the need for financial contributions to the Council. In the first instance this provision should be on-site and integrated in to the development. Where the Council deems that it is not possible to appropriately deliver affordable housing requirements on-site, the developer will be required to provide the necessary provision off-site. In exceptional circumstances and entirely at the discretion of the Council, a financial contribution in lieu may be considered appropriate. This matter is detailed further in the following paragraphs.

### **Payments in lieu**

- 3.1.97. Payments in lieu of on-site affordable housing provision may be considered in exceptional circumstances and at the Council's absolute discretion. Payments may be considered if there is a concentration of a particular size and type of units on the proposed site, for instance:
- if there is a high concentration of 1- and 2-bedroom units on the site and there is a need to provide more family-sized units; or
  - to mix tenures to ensure that balanced and mixed communities are being created.

- 3.1.98. In order for the Council to accept a commuted sum payment, it needs to be satisfied that the developer subsidy towards affordable housing could fund the required proportion, type and tenure of affordable housing units required elsewhere in the borough. It will also need to include the cost to the Council of acquiring a suitable site on which to build the affordable housing and making the land capable of hosting development. This may mean that the cost per unit of a commuted sum is higher than the on-site cost per unit would be for the developer.
- 3.1.99. The Council will normally use the GLA Development Control Toolkit for calculating the commuted sum payments and to assess the economic feasibility of sites to provide affordable housing. The main concern with using this method for the calculation of commuted sum payments is that in some circumstances, it does not produce enough money to deliver the same target and mix of affordable units off-site. Therefore, the Council may make adjustments to the calculation to account for local and site specific circumstances.
- 3.1.100. When the Council deems it necessary, it may seek independent financial viability advice to inform its decision regarding the suitability of payments in lieu. The Council requires applicants to agree to meet the cost of an independent valuer to critically analyse the proposal to ensure it accurately represents the ability of the scheme to provide affordable housing off-site. If the applicant is unwilling to meet the Council's costs in procuring such advice, the Council may be unable to determine whether the affordable housing provision is appropriate and may refuse the application.
- 3.1.101. The calculation of a payment in lieu must include the following essential components:
- The cost of acquiring a suitable site in the same area as the application site;
  - PLUS the cost of building suitability sized affordable housing units;
  - LESS the price an RP may pay for the completed units.
- 3.1.102. The Council will require payments in lieu to be made on commencement or prior to first occupation.

## 3.2 Wheelchair Housing

### Background and justification

- 3.2.1 Many Londoners require accessible housing to lead independent and dignified lives. Lifetime Homes are suitable for most occupiers but are not a substitute for purpose-designed wheelchair standard housing. Many wheelchair users will require purpose-designed wheelchair housing and will find a lifetime standard home inadequate for their space requirements.
- 3.2.2 Wheelchair housing is designed to specifically meet the diverse and changing needs of wheelchair users and the multiplicity of impairments that some wheelchair users experience. Greater spatial demands and increased flexibility and specification in a property designed to wheelchair housing standards aims to ensure that not only does a wheelchair user have access to every facility inside and outside of the dwelling, but also has choice on how best to approach (and sometimes adjust) that facility to suit their particular needs.
- 3.2.3 The Council will expect a minimum of 10% of all housing, including the affordable housing, to be adapted or easily adaptable to the South East London Housing Partnership Wheelchair Homes Design Guidelines (October 2011) or any successor version of this document. A copy of the South East London Housing Partnership Wheelchair Homes Design Guidelines (SELHP Guidelines) can be found on the Council's website ([www.lewisham.gov.uk](http://www.lewisham.gov.uk)).
- 3.2.4 The Council will secure the timely provision, and retention in perpetuity, of wheelchair units (both affordable and private) provided as part of a development through a planning obligation (or condition where appropriate). This will include fit out requirements for affordable units and details of the developer's marketing responsibilities for both affordable and private units. Where wheelchair units are not provided (or cannot be provided to the required standard) the Council will seek a financial contribution towards provision of wheelchair housing elsewhere in the borough.

### Policy pointers

- 3.2.5 For a summary of the national, regional and local planning policy context, see Appendix 1.

### Types of obligation and when they are required

- 3.2.6 The Council will secure the timely provision, and retention in perpetuity, of wheelchair units (both affordable and private) provided as part of a development through planning obligations. This will include the fit out requirements for affordable units and details of the developer's marketing responsibilities for both affordable and private units.

### Required form of obligations

#### Provision of wheelchair housing units within the development

- 3.2.7 The Council will expect a minimum of 10% of all housing, including the affordable housing, to be adapted or easily adaptable to the South East London Housing Partnership Wheelchair Homes Design Guidelines (October 2011) or any successor version of this document.

- 3.2.8 The 10% requirement will be calculated based on the total number of units within the development rounded to the nearest whole number (with 0.5 being rounded up) and must be provided in equal proportions across each tenure type within the development, unless otherwise agreed with the Council.
- 3.2.9 The wheelchair units provided as part of any development must be designed to meet all of the requirements set out in the SELHP Guidelines (including communal access doors and corridors and on-site parking) for them to be considered acceptable as wheelchair units. Any communal areas of the development including but not limited to any open space, leisure facilities and refuse storage must also be fully accessible for wheelchair users.
- 3.2.10 The Council requires a mix of sizes of wheelchair units across tenures, and where possible wheelchair units should be located on the ground floor, or where this is not possible they should be provided below 3rd floor level. It is important to consider the distribution, location, number and size of wheelchair units at the beginning of the design process in consultation with the Council, which can advise further on current wheelchair housing needs in terms of unit sizes.
- 3.2.11 The Council requires that all of the social rented or affordable rented wheelchair units provided as part of a development are fully fitted out for wheelchair occupiers, unless otherwise agreed by the Council. In relation to the intermediate and private wheelchair units, where the first occupants are likely to be unknown, the home should be designed to be easily adaptable for future occupation by a wheelchair user.
- 3.2.12 'Easily adaptable' for the purposes of this SPD means that the home is designed from the outset with suitable accessibility, storage capacity, refuse storage, approach space to facilities and furniture, and circulation as defined by the SELHP Wheelchair Homes Design Guidelines, that enables later minor alterations to be easily undertaken to suit individual needs. Easily adaptable units should not require structural alterations (such as removing walls or widening doorways) or alterations to services to make it suitable for wheelchair users, but it might require minor alterations such as installing grab rails, replacing a bath with a shower or changing the kitchen bench and cabinets.
- 3.2.13 The Council requires that all wheelchair units are provided with on-site carparking unless otherwise agreed by the Council. No additional cost should be charged by the developer for the affordable wheelchair housing parking provision.
- 3.2.14 The provision of both the affordable and private wheelchair housing units (including the number, mix, location, fit-out and associated carparking spaces) will be secured through planning obligations.

## **Marketing of units**

- 3.2.15 Developments that include shared ownership and/or private wheelchair units will be required to market wheelchair units for a minimum period of 6 months before any of the homes, if still unsold, are released onto the open market.
- 3.2.16 Shared ownership wheelchair units should be marketed in accordance with the 'SELHP Guidelines for Developing & Marketing Wheelchair Accessible Shared Ownership Properties' document (available from the SELHP website). Private wheelchair units should be advertised on specialist websites/publications catering for people with disabilities.
- 3.2.17 In the case of larger developments the Council may secure the submission of a 'Wheelchair Housing Marketing Plan' through planning obligations to ensure that

every effort is made to target people with disabilities. The Council may also require the submission of monitoring information such as the number of wheelchair units sold to wheelchair users.

### **Payment for provision of off-site wheelchair units**

- 3.2.18 In exceptional circumstances, where site constraints such as topography prevent the SELHP Guidelines from being met, the Council will require detailed justification setting out why the guidelines cannot be met. Where wheelchair units cannot be provided on-site the Council will seek a financial contribution towards the provision of or fit-out of wheelchair housing elsewhere in the borough.
- 3.2.19 Any shortfall in the required provision of on-site wheelchair housing will be charged at £25,000 per unit. The level of payment is based on the average cost of adapting properties in Lewisham over the past 5 years. These changes include installing accessible kitchens, bathrooms, doors and providing level access and ramps.
- 3.2.20 In providing off-site wheelchair units the Council will work with Lewisham residents who have a disability whose current homes are in need of adaption, to adapt their homes as necessary. This will help more disabled people to stay in their homes and thereby provide accessible units to those who can not move into new units.

## 3.3 Local Labour and Business

### Background and justification

- 3.3.1 As London's economy grows the number of jobs and careers available to Lewisham's citizens will increase. The London Plan, developed by the Greater London Authority, predicts that a minimum of 249,000 more jobs between now and 2016 will be created in east and south-east London.
- 3.3.2 Many of these jobs will require specific skills. Lewisham's citizens should feel equipped to compete for the best jobs and fulfil their aspirations. Everyone, regardless of their background or experience, will be able to develop their skills through lifelong learning and access these opportunities. New skills can be learnt in a variety of situations, whether it be caring for a relative, starting an adult education course or training to advance or change a career.
- 3.3.3 The GLA Local Enterprise Panel identified, in the Jobs & Growth Plan for London, April 2013, that one of its four priorities is 'skills and employment' – to ensure Londoners have the skills to compete for and sustain London's jobs.
- 3.3.4 Some 30,000 adults in Lewisham require help with basic literacy and numeracy. With access to the right training, development opportunities and support, all our citizens can benefit from London's dynamism and transform their prospects.
- 3.3.5 High unemployment levels, low incomes and deprivation persist in the borough because of certain barriers to employment that people experience, most notably the lack of skills that are required in the jobs market. Reducing deprivation is an essential part of developing socially sustainable communities, especially in areas experiencing high density development.
- 3.3.6 Improving the skills of the local population is important in promoting a vibrant labour market and local economy that provides jobs for local people and a full range of goods and services for residents and visitors.
- 3.3.7 The objectives of the Council's Local Labour and Business Scheme has objectives around securing and raising awareness of opportunities in employment, training and business within the borough. This is a co-ordinated scheme, working with developers, contractors, suppliers and service providers, which makes available bespoke support and guidance. This is designed to ensure that local people and businesses are best positioned to take advantage of new employment, training and business opportunities through the development and regeneration taking place in the borough and in the wider Thames Gateway and London areas.
- 3.3.8 The Lewisham Local Labour and Business Scheme also provides the opportunity for local small and medium sized enterprises (SMEs) to obtain support in the form of workshops, Lewisham business procurement directory , one-on-one business growth advice, prequalification questionnaire completion and tender submissions assistance. The Local Labour and Business Co-ordinator promotes Lewisham businesses by brokering opportunities and intelligence regarding Lewisham businesses to developers.
- 3.3.9 The use of local labour and businesses can also limit the environmental impact of new development as it will reduce the need for commuting to work and training locations and will require materials being transported shorter distances.

- 3.3.10 As previously described, Lewisham contains some of the most deprived locations in the country, where there is high unemployment. The addition of further population from new development has the potential to exacerbate the rate of unemployment as competition for a limited number of local jobs rises.
- 3.3.11 For the reasons above, financial support for the Local Labour and Business Scheme is vital in mitigating the impact of new development. Most development will have an impact and therefore obligations in this respect will be required.

## Policy pointers

- 3.3.12 For a summary of the national, regional and local planning policy context, see Appendix 1.

### **Key Document - Lewisham Business Growth Strategy**

The Business Growth Strategy sets out how the Council and partners will work together to maximise business growth in the borough in the next ten years (2013 to 2023). The vision of the strategy is that in ten year's time Lewisham will be one of the fastest growing parts of the London economy.

Three aims have been developed to underpin this vision. These aims have been developed through an examination of the Lewisham economy and by considering how its unique mix of characteristics can be exploited to harness the potential that already exists in the borough to boost economic growth.

**Aim 1:** To boost Lewisham's contribution to the London economy by enhancing the ability of new and existing business to thrive and grow.

**Aim 2:** To accelerate the expansion of the Lewisham economy by capitalising on major physical regeneration in the borough to create the right environment for business growth

**Aim 3:** To diversify and expand the Lewisham economy by inspiring, nurturing and promoting the creativity and entrepreneurship of Lewisham residents.

## Types of obligation and when they are required

- 3.3.13 The Council will use planning obligations to secure financial contributions towards the training, support and recruitment of local people.
- 3.3.14 The Council will also use planning obligations to secure the commitment of developers, contractors and end users to use local labour by providing apprenticeships, graduate placements/jobs, work experience, work placements, advertising jobs locally and seeking to recruit Lewisham residents into job vacancies.
- 3.3.15 The Council will use planning obligations to secure the commitment of developers, contractors and end users to upskill their local workforce, with specific focus on Lewisham residents.
- 3.3.16 The Council will use planning obligations to secure the commitment of developers to engaging with local businesses to ensure that they are best positioned to access contract opportunities through development, regeneration and other end-user routes.

## Required form of obligations

### Financial contribution

- 3.3.17 Financial contributions will support both capital and revenue costs of a range of services provided by the Local Labour and Business Scheme for residents and small and medium-sized businesses in the borough.
- 3.3.18 The contribution sought reflects the current training and operation costs of running the programme to the end of the Local Plan period (2025). Based on the Council's experience and forecasting, it is estimated that the combined cost of operating the programme is approximately £1,000,000 per year.
- 3.3.19 The approach to the contribution sought seeks to split the contribution between residential and commercial development. This is because both the local residential population and the local economy stand to gain from the Local Labour and Business Scheme. Residential development will therefore be expected to contribute to half of the annual £1,000,000 required to operate the Local Labour and Business Scheme, with commercial development contributing to the remaining half.
- 3.3.20 The approach seeks an equal amount for each job and dwelling proposed. The contribution for each dwelling and job generated by commercial development is therefore derived by dividing the amount required to operate the scheme by the total number of jobs and dwellings that will be created within the borough to 2025. Based upon the estimated number of new dwellings (1,385) to be created annually as required by the London Plan (draft FALP 2014) and the number of new jobs required annually (500) as estimated by the Lewisham Business Growth Strategy, each new job and dwelling will require a contribution of £530 towards employment training.

**Table 3.3 – Total Contribution Required per Dwelling/Job**

	<b>No. planned annually to 2025</b>	<b>Total cost of running employment training schemes annually</b>	<b>Total cost per dwelling/job</b>
Dwellings	1,385	£735,000	£530
Jobs	500	£265,000	£530
Total	1,835	£1,000,000	£530

- 3.3.21 In order to estimate the number of jobs that will be generated from employment floorspace, the Council will use the employment densities identified in the HCA Employment Densities Guide (2nd edition) or subsequent guidance.

e.g. High street retail = 1 job per 19 m<sup>2</sup>  
190 m<sup>2</sup> of new High street retail development = 10 jobs  
Cost per job = £530  
Cost for 10 jobs = £5,300

### Non financial obligations

- 3.3.22 The Council will secure both financial and non-financial obligations as required. Non-financial obligations could include:
- A Local Labour and Business Strategy

- Monitoring on a monthly basis.

### 3.3.23 A Local Labour and Business Strategy will be required to:

- Support local people into work by providing employment opportunity-linked training. It is envisaged that the employment opportunities will not only be construction related eg trades, construction professionals, administration, security, catering etc but will also be secured through the wide range of end users eg leisure, facilities management, warehouse operative etc. A commitment from developers, contractors and end users to use reasonable endeavours to obtain 50% of the on site workforce from residents within the borough;
- Advertise job opportunities locally 7 days prior to general advertisement;
- Raise awareness of the vast, varied and rewarding career opportunities available in the construction industry and other sectors to local young people in full time education and leading from apprenticeships;
- Detail participation in community events eg job fairs, youth engagement, careers fairs, engagement with groups supporting residents furthest away from the job market;
- Provide support for local businesses to access developer, contractor and supply chain subcontract and supplier contract opportunities through workshops and events;
- Commit to including suitable local businesses in all project related procurement processes;
- Commit the developer/contractor to use reasonable endeavours to place 50% (in terms of value) of the available supply and service contracts with businesses from the borough;
- Detail employment opportunity-linked training places and associated costs (e.g. licenses, PPE, certification etc);
- Provide construction phasing information and labour forecasting data to the Council, to maximise the job matching process;
- Provide a named contact who is responsible for the delivery of the Local Labour and Business Strategy;
- Make a commitment to include anticipated achievements, on the project, in the following areas (all targets are related to local residents and businesses, where 'local' refers to the location of permanent operation of business or location of resident's home being within Lewisham borough):
  - a) New apprenticeship places
  - b) Continued apprenticeship places (safeguarded)
  - c) Finished apprenticeships
  - d) Graduates
  - e) Community involvement activities
  - f) 16+ work experience
  - g) 14-16 work experience
  - h) Jobs advertised through the Local Labour and Business Scheme
  - i) Job Starts
  - j) Accredited training places

- k) Businesses completing prequalification process
- l) Businesses receiving project related invitations to tender
- m) Value of contracts secured by local business.

3.3.24 Monitoring will expected to be undertaken in accordance with the requirements detailed on the Council's website and using the monitoring form, available at the website link below:

<http://www.lewisham.gov.uk/mayorandcouncil/counciljobs/employmentadvice/default/Pages/Local-Labour-and-Business-Scheme.aspx>

## 3.4 Employment floorspace

### Background and justification

- 3.4.1 The borough of Lewisham has seen a reduction in the amount of employment land in recent times. The table below shows how the amount of commercial space in the borough has shrunk over the past decade at a faster rate than for both London and London East.

**Table 3.4 – Changes in Commercial Floorspace**

Percentage Change in Commercial Space 2002-2012			
	Lewisham	London	London East
All	-16.33	-2.98	1.65
Industrial	-30.2	-17.31	-19.68
Retail	-5.79	3.72	7.42
Office	7.35	4.2	21.03

Source : Local Futures 2013

- 3.4.2 Once employment land is redeveloped for alternative uses it is unlikely it will ever revert back to an employment-generating use.
- 3.4.3 The Council has a range of planning policies to protect existing employment floorspace, require positive redevelopment of employment floorspace where possible and encourage new floorspace to be brought forward. Additionally, the Business Growth Strategy<sup>6</sup> sets out how the Council and its partners will work together to maximise business growth in the borough in the next ten years, 2013 to 2023.
- 3.4.4 The vision of the strategy is that in ten year's time Lewisham will be one of the fastest growing parts of the London economy, backed up by three aims, as follows:
1. To boost Lewisham's contribution to the London economy by enhancing the ability of new and existing business to thrive and grow.
  2. To accelerate the expansion of the Lewisham economy by capitalising on major physical regeneration in the borough to create the right environment for business growth.
  3. To diversify and expand the Lewisham economy by inspiring, nurturing and promoting the creativity and entrepreneurship of Lewisham residents
- 3.4.5 Most development will have the opportunity to bring forward employment floorspace, while many schemes will have a policy requirement to deliver it. In these circumstances the Council will seek to ensure that the provision is of a sufficient quality, accessibility and affordability that makes certain it has the highest possible chance of being deliverable and becoming sustainable and resilient employment floorspace. Obligations may be sought from all developments.
- 3.4.6 This section sets out examples of those matters that will, when appropriate, need to be mitigated through a planning obligation in order to ensure high quality deliverable employment floorspace is provided. This may include both permanent matters as

<sup>6</sup><http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/strategies/Documents/LewishamBusinessGrowthStrategy2013-2023.pdf>

well as temporary measures, such as incentives to encourage initial momentum in occupation.

- 3.4.7 In order to maintain a diverse and sustainable local economy it is important for a range of commercial property to be available to support the small and medium-sized enterprises (SME) sector and accordingly the Council will work with developers to encourage the provision of flexible and affordable office floorspace in office development and small and affordable shop units in major retail developments.
- 3.4.8 In some cases, local regeneration and improvement projects may include enhancement of employment floorspace in conjunction with many other improvements, such as town centre improvements, transport improvements or public realm enhancements. This is particularly likely in the Council's Regeneration and Growth Area, or where a development is located in one of the town centres identified in the Core Strategy as a Major, District, or Local Town Centre. A financial contribution towards such overarching projects may mitigate against multiple adverse impacts. In such circumstances reference should be made to other relevant sections of this SPD regarding these matters, including the specific guidance in section 4 regarding improvement projects in areas of high growth.

### **Policy pointers**

- 3.4.9 For a summary of the national, regional and local planning policy context, see Appendix 1.

## **Types of obligations and when they are required**

### **Delivering sustainable new floorspace**

- 3.4.10 In order for the Council to ensure that deliverable, sustainable and resilient floorspace is provided in the right locations, applicants proposing new employment floorspace will, when appropriate, be required to provide details for approval regarding a number of matters, including:
- The level of fitout of commercial units. Micro business should not have to meet the costs of fitting out small units. Small units should be fitted out or if left as shell and core the costs of fitting out should be met by the developer.
  - Market research that provides evidence of demand for the type of premises being delivered.
  - Evidence that consideration has been given to workspace models such as co-working space, incubators and accelerators, which can support growth in new and micro businesses.
  - Affordable rent (in perpetuity or as a temporary incentive)
  - Commercial rates
  - Service/additional charges
  - Provision of business incubator space and/or co-working space
  - Size of floorspace
  - Flexibility of floorspace
  - Length and terms of lease. Terms that provide flexibility for small businesses are preferable. Include details of break clauses and notice periods

- Provision of high speed broadband.

The Council may use a legal agreement to manage the proposed use of employment floorspace, including appropriate rent levels and to control the size, location and nature of the occupant.

### **Loss of existing floorspace**

- 3.4.11 The Council will resist the loss of employment floorspace in accordance with the policy framework in place. However, in exceptional circumstances and at the Council's discretion, the Council may take the view that the loss of employment floorspace is acceptable.
- 3.4.12 Where this is the case, the Council will seek a financial contribution as detailed in the following section.

### **Required form of obligations**

- 3.4.13 New employment floorspace (as required by policy), taking account of the matters outlined above, should be delivered on-site whenever possible and only off-site when the Council deem it necessary. The proposed approach, detail and delivery of such provision (whether on-site or off-site) will need to be approved by the Council.
- 3.4.14 Where the Council deem that direct provision by the developer is not achievable a financial contribution may be necessary. A financial contribution may also be necessary if there has been a loss of employment floorspace under the circumstances described in paragraph I.1.10.
- 3.4.15 In order to estimate the number of jobs that have been lost or failed to be generated from missed opportunities for employment floorspace, the Council will use the employment densities identified in the HCA Employment Densities Guide (2nd ed.) or subsequent guidance.
- 3.4.16 The cost of a job has been calculated as the equivalent of the cost of supporting a trainee for one year, in order to provide an opportunity to secure long term employment, which is £10,000.
- e.g.           High street retail = 1 job per 19 m<sup>2</sup>  
                   190 m<sup>2</sup> of new High street retail development = 10 jobs  
                   Annual cost for a trainee = £10,000  
                   Cost for 10 jobs = £100,000
- 3.4.17 The rate of £10,000 will be subject to indexation in the form of the BCIS index quarterly in order to ensure that it stays appropriate over the lifetime of the policy.
- 3.4.18 The Council will use this funding to bring forward flexible and affordable business space.

## 3.5 Transport

### Background and justification

- 3.5.1 Securing an accessible, effective and appropriately-sized public transport system is integral to the creation of sustainable and cohesive communities, and plays an important role in enhancing quality of life for all residents and combating social exclusion for disadvantaged individuals and groups.
- 3.5.2 Most forms of development will result in increased pressure on existing transport infrastructure across the Borough and will therefore be required to minimise, eliminate or mitigate against the impacts of the development. This includes improvements in the quality, capacity and safety of the road network as a result of residential and commercial vehicle movements; improvements to cater for increased walking and cycling trips, and enhancements to public transport, such as bus and rail services and supporting infrastructure.
- 3.5.3 Obligations will be sought from all impact-generating development to provide for appropriate infrastructure to cater for proposed increases in the residential population and demand generated through increased employment opportunities.
- 3.5.4 Funding for strategic transport enhancements that are required as a result of incremental growth will normally be provided by the Council using CIL funding.
- 3.5.5 Where developments are required to deliver infrastructure matters needed to make developments acceptable in planning terms, these matters may be secured through planning obligations. Other transport matters may be dealt with through planning conditions and Section 278 transport agreements.
- 3.5.6 This section sets out examples of those matters that may be required to be mitigated through planning obligations, including transport assessments and travel plans, site delivery infrastructure, local network impacts, carparking and car sharing.
- 3.5.7 In some cases, regeneration projects may include enhancement of the local transport network in conjunction with other improvements, including to the economic development and/or public realm in the vicinity. This is particularly likely in the Council's Regeneration and Growth Area, or where a development is located in one of the town centres identified in the Core Strategy as a Major, District, or Local Town Centre. A financial contribution towards such overarching projects may mitigate against multiple adverse impacts. In such circumstances reference should be made to other relevant sections of this SPD regarding economic and public realm matters and the specific guidance in section 4 regarding regeneration.

### Policy pointers

- 3.5.8 For a summary of the national, regional and local planning policy context, see Appendix 1.

### Types of obligation and when they are required

- 3.5.9 The following are types of obligation that may be required to mitigate against the impact of a development. This is not an exhaustive list, but a guide for developers to the types of transport matters that should be considered.

## Plans

- 3.5.10 In most instances travel plans, servicing and delivery plans, temporary traffic management plans and other transport related plans should be submitted up front in the application process in line with the Council's Local Information Requirements.<sup>7</sup> In exceptional circumstances and in particular for very large schemes, it may be necessary to secure on-going matters, including monitoring and review mechanisms, as a planning obligation.

### Site delivery infrastructure and specific network impacts

- 3.5.11 A proposed development may require specific works in order to make the scheme acceptable in planning terms. Necessary infrastructure may be secured on site, regarding access to the site or off-site in the vicinity of the development.
- 3.5.12 On-site matters and those regarding access to the site could include the relocating of bus stops, trees and street furniture, kerbing matters, road crossings and minor junction works. The delivery of these works should be secured through the most appropriate course, be it a S106 obligation or through a S278 agreement.
- 3.5.13 Improvements to the strategic transport network required as a result of development will normally be provided by the Council using CIL and other funding. However, there may be occasions where a developer may be required to fund other transport infrastructure where:

- a) the development will have an impact on the local transport network that requires mitigation.

In these circumstances, there may be the need for local changes and improvements, such as (but not limited to) enhancements to local highway and freight capacity and quality, public transport infrastructure, cycling and walking routes and vehicle management matters (including carparking controls and management and car and cycling clubs).

- b) a specific transport improvement is necessary to make a proposed development acceptable.

The Council considers that this is most likely for large developments that require enhancement of the transport network in order to ensure the acceptability and effective delivery of the proposals for the site. For example, the provision of transport infrastructure that will improve the development's PTAL to a point which will make the proposed quantum of residential development acceptable. For the majority of developments the Council considers that on-site and local improvements will normally be sufficient to mitigate impacts.

### Required form of obligations

- 3.5.14 The level of contributions for this topic cannot be determined through use of a standard formula, as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.5.15 It is preferable to the Council for developers to directly provide necessary improvements and mitigation rather than financial contributions to the Council. This should be delivered on-site whenever possible and off-site only when necessary. The proposed approach, detail and delivery of such mitigation (whether on-site or off-site) will need to be approved by the Council. Where direct provision by the

---

<sup>7</sup> <http://www.lewisham.gov.uk/myservices/planning/applications/Pages/Validation-requirements.aspx>

developer is not achievable a financial contribution may be necessary. This should be based on the cost to the Council of undertaking the necessary works or of engaging a third party to undertake the works. The level of cost should be evidenced by the developer and then submitted for agreement with the Council in advance.

- 3.5.16 Applicants should note that Transport for London may require contributions over and above those sought by the Council in order to address the impacts of the development. TfL operates a pre-application process. For further details please see [www.tfl.gov.uk](http://www.tfl.gov.uk).

## 3.6 Public Realm

### Background and justification

- 3.6.1 Public realm is considered to be those parts of an urban area (whether publicly- or privately-owned) located between, surrounding and within buildings that are publicly accessible, including streets, squares, forecourts and open spaces. The public realm is an important aspect of any development and ensures that the development is integrated into and enhances the existing character and use of the area.
- 3.6.2 All residential and commercial development is required by policy to contribute towards good design (in particular through Core Strategy Policy 15), which extends to the consideration of the public realm. Most forms of development will place the surrounding public realm under increased strain and will therefore be required to minimise, eliminate or mitigate against the negative impacts of the development. Such mitigation may be required to cover aspects such as quality and durability, access and connectivity, community safety and other matters integral to its use. Contributions to public realm may also add towards refurbishment or new provision of civic space and other projects aimed at improving the quality for users of these areas. Applicants will be encouraged to engage artists and urban designers at an early stage.
- 3.6.3 Planning obligations for public realm improvements may be sought from any development that is required to mitigate its impact and will be sought from qualifying residential and commercial development proposals within major and district town centres and employment locations (as shown on the Local Plan Policies Map), those developments impacting on key public transport locations and those developments that generate high visitor numbers.
- 3.6.4 Any public realm contributions will be separate and additional to CIL. They will be required to address the localised impacts of a development, not the strategic infrastructure matters listed in the Council's Regulation 123 list. Most green open space infrastructure will be funded by CIL.
- 3.6.5 In some cases, regeneration projects may include enhancement of the public realm in conjunction with other improvements, including improvements to the economic development and/or transport sustainability of the locality. This is particularly likely in the Council's Regeneration and Growth Area, or where a development is located in one of the town centres identified in the Core Strategy as a Major, District, or Local Town Centre. A financial contribution towards such overarching projects may mitigate against multiple adverse impacts. In such circumstances reference should be made to other relevant sections of this SPD regarding economic and transport matters and the specific guidance in Section 4 regarding regeneration.

### Policy pointers

- 3.6.6 For a summary of the national, regional and local planning policy context, see Appendix 1.

## Types of obligation and when they are required

### Providing high quality public realm

- 3.6.7 Provision of new or improved public realm may be required on site, to access the site or in the vicinity of the development, and will be expected to be delivered to the highest quality level.
- 3.6.8 Public realm environments should be delivered to a high standard of design and using high quality materials. The Council has a number of documents that offer guidance on delivering high quality public realm, including the Streetscape Guide<sup>8</sup>, the North Lewisham Links<sup>9</sup> strategy and the River Corridor Improvement Plan SPD<sup>10</sup>. The Council will also seek independent design advice when it is deemed necessary to ensure the delivery of a high quality public realm. It may be necessary for the applicant to fund the independent advice required to enable the Council to assess the acceptability of proposals. Applicants should seek advice from the Council at an early stage as to the appropriate design guidelines to be followed, dependent on the public realm works proposed.

### Public art

- 3.6.9 The provision of public art and artistic features should form an integral part of any Major Development in prominent locations and/or making a significant impact on its physical environment.
- 3.6.10 The provision of public art should be in accordance with the Council's latest cultural strategy and should be discussed with the Council (including the Council's Officer responsible for public art) at an early stage, i.e. at concept stage, rather than approval stage. The Council will insist that any public art is developed through a transparent process that should involve community engagement and consultation at an early stage in the process, where appropriate.
- 3.6.11 The use of local artists will be encouraged, where it is appropriate to do so and the integration of successful existing or newly planned public hard and green open spaces will be supported.
- 3.6.12 Where necessary, the Council will use planning obligations to secure the delivery of a public art proposal. Applicants may be required to submit a public art plan for approval detailing matters including engagement and consultation, form and design, funding, delivery, on-going management and maintenance.

### Access and connectivity

- 3.6.13 New developments should be connected with the surrounding environment and provide easy access to the most sustainable forms of movement, including cycling and walking. Developments may need to link to and maintain existing publicly-accessible routes on the site and in the vicinity, and ensure that new links and routes are provided as necessary. Reference should again be made when appropriate to

---

<sup>8</sup> <http://www.lewisham.gov.uk/myserVICES/transport/roads-and-pavements/Pages/Lewisham-Streetscape-Guide.aspx>

<sup>9</sup> <http://www.lewisham.gov.uk/inmyarea/regeneration/deptford/north-lewisham-links/Pages/default.aspx>

<sup>10</sup> <http://www.lewisham.gov.uk/myserVICES/planning/policy/LDF/SPDs/Pages/River-corridor-improvement-plan.aspx>

the North Lewisham Links strategy and the River Corridor Improvement Plan SPD for further guidance on this matter.

- 3.6.14 The Council will use planning to ensure that hard open spaces and routes are publicly accessible and will remain so in perpetuity (whether publicly- or privately-owned), and will resist the installation of gates.
- 3.6.15 Applicants may be required to submit public realm and public access management plans to support their proposed approach. Such plans will be required to detail matters including public access route funding, delivery, management and maintenance and providing a clear purpose of the function of each route.
- 3.6.16 Further obligations may be necessary to secure rights of way and to ensure they are provided or upgraded to a suitable quality and maintained as such over time.

### **Community safety**

- 3.6.17 Developments must provide a safe environment for the local community and visitors. The primary means of addressing community safety will be good design. In some circumstances there may be specific safety concerns arising from a scheme requiring further mitigation measures to be taken to tackle safety risks either on-site or in the vicinity of the development. In particular, development that generates high visitor numbers may generate public safety concerns that require additional mitigation.
- 3.6.18 Measures to improve community and visitor safety in the vicinity of developments that may be required could include improved lighting;, enhancements to the Council's CCTV system, and design measures including actions to improve lines of sight and over looking.

### **Impact on surrounding public realm**

- 3.6.19 The introduction of most forms of new development will place an extra strain on public realm in the vicinity of the development. In particular large scale development in town centre or employment centre locations or developments that generate a high number of visitors can have a significant impact on the local public realm. In these circumstances there may be the need for mitigation in the form of off-site projects or financial contribution to the Council to provide local improvements, ensuring that the public realm can accommodate the increased strain. Such mitigation may include enhancement of the public realm in the shape of public conveniences and benches, space accessibility, management, function and maintenance improvements and waste management schemes.

### **Required form of obligations**

- 3.6.20 The level of contributions for this topic cannot be determined through use of a standard formula, as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.6.21 For the types of obligation detailed in this section, it is preferable to the Council for developers to, wherever possible, directly provide necessary improvements and mitigation without the need for financial contributions to the Council. The Council recognises that this may not be possible when it comes to off-site locations, particularly civic spaces. Should the developer intend to undertake direct provision, the proposed approach, detail and delivery of works will need to be approved by the Council and may be secured through a S106 agreement. Where a financial

contribution is necessary, this should be based on the cost to the Council of undertaking the necessary works or of engaging a third party to undertake the works. The level of cost should be evidenced by the developer and then submitted for agreement with the Council.

- 3.6.22 Where a financial contribution may be appropriate to support wider regeneration projects, the quantum of contribution will be agreed between the developer and the Council, based on the cost of works required and the amount of development expected to support the project. Where possible the Council will justify the amount of contribution required with reference to a local plan or strategy.
- 3.6.23 Applicants should note that Transport for London may require contributions over and above those sought by the Council in order to address the impacts of the development. TfL operates a pre-application process. For further details please see [www.tfl.gov.uk](http://www.tfl.gov.uk).

## 3.7 Children's Play Space

### Background and justification

- 3.7.1 The provision of facilities for children and young people is important in facilitating opportunities for play and physical activity and the development of movement and social skills.
- 3.7.2 London Plan Policy 3.6 and Core Strategy Policy 12 require that residential and mixed use developments make provision for children's play and informal recreation space. The London Plan states that the amount of provision should be proportionally based on the number of children expected to occupy the development and an assessment of future needs. Summarily, the Mayor concludes that new development that creates a child yield is expected to provide 10 m<sup>2</sup> of play and recreation space for every child.
- 3.7.3 The Lewisham Leisure and Open Space Study (2010) details the existing ratio of children's play space to the child population in the borough. Currently there is 1.51 m<sup>2</sup> of play space per child in Lewisham, equating to 8.49 m<sup>2</sup> less than the figure recommended by the Mayor of London. Planning obligations will not be used to address existing deficiencies in provision; rather this information is provided to emphasise the importance of delivering an acceptable level of play space alongside new development. The Council will expect all new major developments to provide children's play space provision in line with London Plan Policy 3.6.

### Policy pointers

- 3.7.4 For a summary of the national, regional and local planning policy context, see Appendix 1.

### Required form of obligations

- 3.7.5 It is preferable to the Council for developers to, wherever possible, directly provide well designed children's play space on-site in accordance with the policy requirements. Where the Council deems that there are exceptional circumstances and it is not possible for a development to meet children's play space requirements on-site, a financial contribution will be necessary.
- 3.7.6 The financial contribution will be based on the policy requirement (10 m<sup>2</sup> per child) minus any space delivered on-site. The undelivered play space will then be multiplied by £300 per m<sup>2</sup>, which represents the estimated cost for the Council to deliver off-site children's play space on behalf of the developer. This rate is based on evidence of the costs to provide actual recent play space schemes in Lewisham and is a pro-rata cost of 1,000 m<sup>2</sup> split into one third play, one third grass and one third safety measures, plus 20% for additional design, surveys, project management, fees and delivery.
- 3.7.7 For both on-site and off-site provision of children's play space, the Council will require commitment from the developer to meeting the maintenance costs in perpetuity to an agreed standard. This will be required whether the play space is to be transferred to the Council or retained by the developer.
- 3.7.8 Any children's play space contributions will be separate and additional to CIL. Whilst children's play space is often located in open spaces, it will not be considered to be covered by any CIL payment.

## 3.8 Carbon Offsetting

### Background and justification

- 3.8.1 Tackling climate change is a key policy at all levels of government. Local planning authorities are expected to help deliver considerable reductions in CO<sub>2</sub> emissions from new buildings. As a result and in line with the London Plan, Lewisham Council require all major applications to achieve a reduction of 35% in carbon dioxide emissions from the level set by the 2013 Building Regulations. This requirement is set out in Policy 5.2 of the London Plan 2011.
- 3.8.2 Major applications are those for 10 dwellings or more, or applications for over 1,000 m<sup>2</sup> of floorspace.
- 3.8.3 The policy will also be applied to any minor material amendment applications (made under S73 of the Town and Country Planning Act 1990) which may impact on the CO<sub>2</sub> emissions of previously granted major permissions.
- 3.8.4 Where the policy can be met on-site, there is no need for a S106 agreement in relation to carbon reduction. However, if the circumstances as described further in this section occur and require a financial contribution to be made in lieu of on-site delivery, a 'carbon offset' payment will be secured using a S106 agreement.
- 3.8.5 Any money collected through the Carbon Offset Fund will contribute towards the cost of reducing carbon emissions across Lewisham. The emphasis will be on using this funding to link in with existing schemes so as to minimise any administration costs and to reduce the overall cost of carbon. The cost of carbon has been tested alongside other Lewisham Council policy requirements and has been found to sit within the required financial viability cost parameters.
- 3.8.6 The domestic sector forms the single biggest element of the carbon footprint of Lewisham, so linking to existing schemes to deliver more measures is one possibility. Works to reduce the carbon emissions within the public sector – eg schools – are also another mechanism.
- 3.8.7 Further guidance on the Carbon Offset fund is available in the Council's guide at the following web address:

<http://www.lewisham.gov.uk/myservices/planning/applications/Documents/CostofCarbonAdviceforApplicantsUpdatedFeb2014.pdf>

### Policy pointers

- 3.8.8 For a summary of the national, regional and local planning policy context, see Appendix 1.

### Required form of obligations

- 3.8.9 The 40% reduction in CO<sub>2</sub> emissions should be met on-site whenever possible. In very limited circumstances off-site mitigation measures may be accepted, however this will only be permissible if it is clearly demonstrated by an applicant that it is not possible to meet the reduction target on site. Applications are liable to be refused if the 40% reduction is not met on-site, and if evidence is not provided as to why the reduction cannot be met on-site.
- 3.8.10 In these circumstances applicants should provide off-site provision within Lewisham whenever possible, or as a last resort agree to pay into Lewisham's Carbon Offset

Fund. Where applicants are proposing to provide the off-site provision themselves they will have to provide evidence that they have identified a project or projects which will deliver the required level of residual carbon emissions reductions and have all the necessary agreements in place to deliver the project.

3.8.11 Lewisham will charge £104 per year for every tonne of CO<sub>2</sub> required to be offset to meet the target figure. The amount is calculated on the basis of the annual difference (in tonnes) between the predicted carbon emissions of the development and the target carbon emissions. The figure should be multiplied by £104 to come to the amount to be paid per year, and then multiplied by the assumed 30 year lifespan of the offset measures.

3.8.12 The calculation is therefore as follows:

(Target carbon emissions to meet a 40% reduction onsite – Projected onsite contribution to carbon reductions) x 104 x 30 = £offset contribution

3.8.13 A worked example to illustrate the above calculation:

Development A has annual CO<sub>2</sub> emissions of 100 tonnes. To meet the policy requirement the developer needs to reduce this by 40 tonnes, however the developer is only able to reduce carbon emissions by 30 tonnes onsite, which means 10 tonnes is required to be offset:

$$((40 - 30) \times 104) \times 30 = \text{£}31,200$$

3.8.14 The local list validation requirements for energy assessments require applicants to set out the carbon emissions for a baseline building and what they are proposing to deliver on site. If applicants cannot meet this target on site they should be setting this out, with information on what element of the costs they are proposing to meet through a payment into the offset fund. The Council expects applicants to address any matters in which the proposal is not policy-compliant and to justify the non-compliance.

## 3.9 Environmental Protection

### Background and justification

- 3.9.1 Improving air quality is of importance in maintaining the health and well-being of the residents, workers and visitors to the borough. The Council monitors the air quality in the borough as part of the London Air Quality Network and uses its Air Quality Action Plan to implement measures to improve the local air quality.
- 3.9.2 In accordance with London Plan Policy 7.14 and Core Strategy Policy 9, all developments are required to ensure that they are 'air quality neutral' as a minimum. The London Plan also states that measures to attain this standard should be provided on-site when possible, and only when this is not the case consider off-site provision or the use of planning obligations. The Council will therefore seek planning obligations from any development that is required to mitigate its air quality impact.
- 3.9.3 Applicants will be required to provide an Air Quality Impact Assessment alongside their application, in accordance with the Council's Local Information Requirements.

### Policy pointers

- 3.9.4 For a summary of the national, regional and local planning policy context, see Appendix 1.

### Required form of obligations

- 3.9.5 The level of contributions for this topic cannot be determined through use of a standard formula, as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.9.6 Developments will be required to mitigate their impact upon local air quality on-site wherever possible. Where the Council deems that this is not possible, it may consider it acceptable for the applicant to deliver equivalent mitigation measures off-site. In appropriate circumstances, the Council may consider a financial contribution where it can be demonstrated that mitigation is best provided through a Council-funded scheme. The applicant should therefore liaise with the Council's Environmental Protection Team at an early stage to establish whether such a funded scheme is acceptable and to provide justification for this approach.
- 3.9.7 As a member of the London Air Quality Network the Council undertakes air quality monitoring using the associated monitoring network, which also provides the necessary independent validation of the data. Large developments will normally be required to undertake air quality monitoring, and are therefore advised to liaise with the Council to establish the best approach. This may be through developer provision or through a financial contribution to support the Council's monitoring network.
- 3.9.8 During demolition and construction there is a risk of a range of negative environmental impacts (including dust, noise, emissions and land contamination). And there will be a need to monitor and mitigate impacts. Applicants should look to undertake the monitoring and mitigation themselves. In addition the Council may need to undertake monitoring using its own resources, and in these circumstances a financial contribution may be required. At all times, applicants should comply with the recommendations in the Council's 'Good Practice Guide, Control of Pollution and Noise from Demolition and Construction Sites' as the primary means of minimising impacts from demolition and construction.

## 3.10 Flood and Water Management

### Background and justification

- 3.10.1 For the purposes of this document the definition of 'flood risk reduction' and 'water management' infrastructure include measures that:
- minimise the risk of fluvial and surface water flooding, including flood warning systems and flood adaptation measures;
  - facilitate sustainable drainage;
  - minimise water use and secure water supply; and
  - maintain or enhance water quality.
- 3.10.2 The Council seeks to reduce flood risk through the appropriate location, design and construction of development and the sustainable management of surface water run-off. Where it is decided that development should be permitted for social or economic reasons, then appropriate flood protection and mitigation measures, including measures to restore the floodplains or provide adequate compensatory storage, will be required to mitigate the impact of development. At sites suspected of being at unacceptable risk from flooding but for which adequate flood risk information is unavailable, developers may be required to carry out at their own expense detailed technical investigations to evaluate the extent of the risk.
- 3.10.3 Funding for strategic flood management infrastructure that is required as a result of incremental growth will normally be provided by the Council using CIL funding.
- 3.10.4 Where developments are required to deliver infrastructure matters needed to make them acceptable in planning terms, these matters may be secured through a S106 legal agreement. Other water management and flooding matters may be dealt with through planning conditions.

### Policy pointers

- 3.10.5 For a summary of the national, regional and local planning policy context, see Appendix 1.

### Types of obligation and when they are required

- 3.10.6 The following are types of obligation that may be required to mitigate the impact of a development. This is not an exhaustive list, but a guide for developers to the types of flood risk and water management matters that should be considered.

### Plans

- 3.10.7 Plans relating to flood risk assessment and water management (e.g. landscaping scheme, living roof detail, etc.) will be required to be submitted up front in the application process, in line with the Council's Local Information Requirements<sup>11</sup>. In exceptional circumstances and in particular for very large schemes, it may be necessary to secure on-going matters, including monitoring and review mechanisms as a planning obligation.

---

<sup>11</sup> <http://www.lewisham.gov.uk/myservices/planning/applications/Pages/Validation-requirements.aspx>

## **Site specific and localised water management and flood risk reduction**

- 3.10.8 The provision of strategic flood management infrastructure required as a result of development will normally be provided by the Council using CIL funding. However, developers cannot call on public resources to provide local and site-specific flood defences for their proposed development where they are not already programmed for the protection of the existing built environment.
- 3.10.9 There may be occasions where an applicant may be required to deliver specific flood risk reduction measures, including long term maintenance, where the development will have increase the local flood risk, either on-site or in the environs of the development.

## **Required form of obligations**

- 3.10.10 The level of contributions for this topic cannot be determined through use of a standard formula, as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.10.11 It is preferable to the Council for developers to directly provide necessary improvements and mitigation without the need for financial contributions to the Council. This should be delivered on-site whenever possible and only off-site when necessary. The proposed approach, detail and delivery of such mitigation (whether on-site or off-site) will need to be approved by the Council. Where direct provision by the developer is not achievable a financial contribution may be necessary. This should be based on the cost to the Council of undertaking the necessary works or of engaging a third party to undertake the works. The level of cost should be evidenced by the developer and then submitted for agreement with the Council in advance.

## 3.11 Biodiversity

### Background and justification

- 3.11.1 For the purposes of this document, the definition of 'biodiversity' infrastructure includes all private natural greenspace, links between public open spaces, living roofs and spaces within public open space that have a specific ecology or biodiversity role, and sites of importance for nature conservation (SINCs).
- 3.11.2 In a densely populated urban area such as Lewisham, promoting and encouraging habitats for biodiversity is very important, both for wildlife itself and in promoting quality of life for those who live and work in the borough. Most forms of new development will result in additional pressure on Lewisham's limited supply of biodiversity resources and will therefore be required to minimise, eliminate or mitigate against the impacts of the development. This includes enhancing urban wildlife through planting principles such as 'right tree, right place', habitat creation and wildlife areas and the integration of features such as living roofs and walls.
- 3.11.3 Obligations will be sought from all impact generating development to provide for appropriate biodiversity infrastructure to cater for proposed increases in the residential and/or employment population.
- 3.11.4 Funding for strategic biodiversity works that are required as a result of incremental growth will normally be provided by the Council using CIL funding.
- 3.11.5 Where developments are required to deliver biodiversity matters needed to make the development acceptable in planning terms, these matters may be secured through planning obligations. Other biodiversity matters may be dealt with through planning conditions.
- 3.11.6 This section sets out examples of those matters that may be required to be mitigated through planning obligations, including the provision of biodiversity plans and the protection, and enhancement and creation of new networks of natural habitats, maximising opportunities to incorporate biodiversity within development and safeguard protected species from the adverse impact of development.

### Policy pointers

- 3.11.7 For a summary of the national, regional and local planning policy context, see Appendix 1.

### Types of obligation and when they are required

- 3.11.8 The following are types of obligation that may be required to mitigate against the impact of a development. This is not an exhaustive list, but a guide for developers to the types of transport matters that should be considered.

### Plans

- 3.11.9 In most instances travel plans, servicing and delivery plans, temporary traffic management plans and other transport-related plans should be submitted up front in the application process, in line with the Council's Local Information Requirements. In exceptional circumstances and, in particular, for very large schemes, it may be necessary to secure on-going matters, including monitoring and review mechanisms as a planning obligation.

## **Site specific and localised biodiversity**

- 3.11.10 A proposed development may require specific works in order to make the scheme acceptable in planning terms. Planning obligations may be used to secure:
- reinstatement of existing habitat features
  - protection and enhancement of existing features
  - creation of new features
  - new habitat creation schemes
  - monitoring or survey work to confirm that relevant environmental measures have been implemented successfully as part of a scheme.

## **Required form of obligations**

- 3.11.11 The level of contributions for this topic cannot be determined through use of a standard formula, as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.11.12 It is preferable to the Council for developers to directly provide necessary improvements and mitigation without the need for financial contributions to the Council. This should be delivered on-site whenever possible and only off-site when necessary. The proposed approach, detail and delivery of such mitigation (whether on-site or off-site) will need to be approved by the Council. Where direct provision by the developer is not achievable a financial contribution may be necessary. This should be based on the cost to the Council of undertaking the necessary works or of engaging a third party to undertake the works. The level of cost should be evidenced by the developer and then submitted for agreement with the Council in advance.

## **Overview of Lewisham's Approach to Planning Obligations**

- 3.11.13 Lewisham's approach to securing planning obligations is set within the framework of national legislation and guidance; regional and local strategy and guidance; and any other material considerations relevant in each particular case. When a planning application is considered, planning obligations will only be sought where they are material to a planning decision, mitigate against a particular impact and comply with the CIL Regulations (2010) (as amended).
- 3.11.14 The Council will not seek planning obligations unrelated to a proposal or grant of planning permission for unacceptable development. Similarly, unrelated or unnecessary planning obligations offered by an applicant are not a means to secure planning permission for unacceptable development. Planning obligations are unlikely to overcome fundamental objections and will only be sought to address issues that prevent permission being granted for generally acceptable proposals. Planning permission will not be granted for unacceptable development.
- 3.11.15 Where there is a choice between imposing conditions and entering into a planning obligation, the imposition of a condition is preferable. The Council will therefore consider if an issue can be satisfactorily addressed through a condition before negotiating planning obligations. Planning obligations will be the preferred method of ensuring the provision of complex arrangements, such as affordable housing, local labour and financial obligations.

## Drafting of Legal Agreements

- 3.11.16 In most cases, S106 agreements will be drafted by the Council's Legal Services team, or by solicitors acting on the Council's behalf. The applicant will be required to pay the Council's reasonable legal and professional costs incurred in the preparation and completion of the agreement and/or, where appropriate, in the negotiation of any related third party agreements.
- 3.11.17 The Council has prepared a model S106 agreement which is available on the Council's website. Additionally the Council is seeking to provide template sections of Unilateral Undertakings. These are intended to assist applicants in understanding how the arrangements will work in detail (particularly for complex issues such as affordable housing) and will help with the timely consideration of planning applications.

## Timing of Payments

- 3.11.18 It is important that planning obligations take effect in time to meet the additional demands from developments as they arise. There are two main ways in which the Council receives financial obligations: either upon completion of the Legal Agreement, or via specified 'triggers'. Each case will need to be reasonably considered on its merits and in relation to the administrative costs to monitor and administer the agreement.
- 3.11.19 Generally the Council will always seek to receive the payment of contributions upon either signing of the Legal Agreement or commencement of development in order that projects to mitigate the impact of a development can be delivered in tandem with the construction of the development.
- 3.11.20 In exceptional cases, particularly very large phased developments, the Council may, where appropriate, agree specific triggers for when the payments are to be made such as commencement of the above ground works or prior to completion of a specified phase of the development.

## Unilateral Undertakings

- 3.11.21 Unilateral undertakings are Legal Agreements which bind only one party, usually the applicant, to undertake planning obligations. A unilateral undertaking can sometimes be used as an alternative to a negotiated S106 agreement as part of the process of determining a planning application. Instead of negotiating planning obligations between the Council and the applicant, the applicant may submit their proposals for planning obligations without consultation. The undertaking is usually submitted alongside the planning application, or with planning appeal submissions.
- 3.11.22 The Council would like to encourage the use of unilateral undertakings, particularly in the following circumstances:
- Small developments
  - Developments that only require financial obligations.
- 3.11.23 Draft unilateral undertaking template sections will be made available on the Council's website to assist applicants.

## **Indexation of Financial Obligations**

- 3.11.24 Financial obligations will be index linked (on an upwards basis only) in order to maintain the value of the obligation, from the date of the committee resolution to grant planning permission until the date that the full payment is received.
- 3.11.25 In most cases the Retail Price Index (RPI) will be used for non-capital financial contributions (e.g. employment and training contributions) and the Building Cost Information Service (BCIS) index will be used for financial contributions towards a specific building or facility as it relates more closely to the cost of delivering a scheme (e.g. monies secured to build or extend a school).
- 3.11.26 All financial obligation indexation will be rounded up to the nearest pound.

## **Interest on Late Payments**

- 3.11.27 It is the developers responsibility to ensure that any financial contributions or in-kind obligations are paid or addressed by the required trigger point. Failure to make any payment due will incur a penalty rate of interest at 4% above the Bank of England Base Rate from the date any payment was due until the day it is received. Such a penalty rate will be above and beyond any indexation that is applied to the sum.
- 3.11.28 All interest charges will be rounded up to the nearest pound.

## **On-Site vs Off-Site Provision**

- 3.11.29 The issue of whether the required measures or facilities are to be provided on or off-site will be considered by the Council on a case by case basis, although the Council's policies and good planning practice require that provision should normally be made on site for measures required to support a particular development.
- 3.11.30 In cases where it is neither practicable nor appropriate to provide the measures on-site, the Council will require a financial contribution towards providing the measures off-site. Where a financial contribution is considered acceptable in lieu of on-site provision, the financial contribution will include the cost of designing and implementing the measures and the Council's project management costs.

## **Outline Applications**

- 3.11.31 Planning obligations are determined for all outline planning applications, and where details are not available at the time of submission (such as the exact number of units) agreement to the formula for Standard Charges will be set out within the S106 agreement. Outline applications are generally only suitable in certain circumstances, and the Council would seek to ensure that applicants submit a full rather than an outline application.

## **Use of Financial Viability Appraisals**

- 3.11.32 The Council recognises that there may be circumstances where a developer may consider that it is not feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable. This is not intended to include developers who acquire sites without planning permission at unrealistically high prices and then seek reductions in affordable housing or other requirements. Viability concerns may arise genuinely, for example where site remediation costs are exceptionally high.

- 3.11.33 The Council will usually require detailed financial appraisal utilising a recognised cash flow model such as Argus Developer, although in some cases the GLA Toolkit may be accepted by the Council. The appraisal will need to be submitted to the Council as part of the application (or at pre-application stage) and both a hard copy and an electronic copy should be provided.
- 3.11.34 Analysis should be based on land values as set by the application of planning policy in determining the permissible scope of development rather than the price actually paid for the land. For this reason valuations should usually be undertaken on a residual basis where the value of land is an output of the process. Arguably no allowance should be made for the original cost of purchasing the land or for payments that are contracted to be made to the landowner or third party under an existing option, conditional land sale agreement, profit share (overage) or clawback arrangement. If it is suggested that the viability of the development is compromised as a result of an allowance for these items then it will be at the discretion of the Council as to what extent, if any, obligations are amended in recognition of them.
- 3.11.35 The general requirements for open book appraisals are:
- Identify and justify (with comparable evidence where appropriate) all development value and cost variables;
  - Specify any 'exceptional' cost items with supporting evidence in writing from reputable cost consultants;
  - Adhere to the standard conventions in terms of appraisal calculations not least regarding developer's profit;
  - Specify all assumptions made concerning the provision of affordable housing and planning obligations;
  - Provide Red Book, or other appropriate valuations to support Existing Use Values where they arise; and
  - Identify in cash flow terms the effect of deferred contributions.
- 3.11.36 The Council expects all financial viability appraisals to be provided with both 'no grant' and 'with grant' scenario's in relation to affordable housing provision and different tenure mixes, where the Council considers that it may be appropriate.
- 3.11.37 In cases where a dispute relates to the viability of a proposal, and in any case, where the Council considers it appropriate, a 'verification' of the applicant's financial viability appraisal will be carried out by an independent assessor. The applicant will be required to provide any financial information to support the viability appraisal to the Council and/or independent assessor on a strictly confidential basis. In such cases the assessor will be commissioned by the Council and the costs are to be met by the applicant. The independent financial assessor's report shall be provided to the Council.
- 3.11.38 In order to address any issues of economic uncertainty which may arise over the lifetime of the proposal the Council will give consideration to put in place provisions for re-appraising the viability of schemes prior to implementation and/or prior to 100% occupation. These are also known as 'contingent obligations' and may also be known as 'overage'. These will obligate the applicant to resubmit a financial appraisal and if the margins of viability/profitability have increased since determination, further obligations may be payable. If the situation has not improved, the approved obligations will stand. This allows for development to be carried out when it may otherwise not be viable to do so or to do so would be at increased levels of risk. It may also serve to encourage development sooner rather than later.

- 3.11.39 Proven impact on viability will be a material consideration in the assessment of a planning application and failure to comply with this SPD will be considered on a case-by-case basis in accordance with the relevant government guidance. However, it should be noted that where development proposals are unable to satisfactorily mitigate their impacts the Council will refuse planning permission.

### **Dispute Resolution**

- 3.11.40 Where appropriate, S106 agreements contain dispute resolution clauses which set out how disagreements between the parties to the agreement will be resolved. In the event of any dispute arising between the parties in respect of the agreement it will be referred to an independent expert. The expert will have at least ten years relevant experience. The role of the independent expert is to facilitate or contribute to the negotiation process. It is the responsibility however, of the parties involved to agree on the outcome of the planning obligation negotiations. The final determination of the planning application remains with the Council.

### **Monitoring of Planning Obligations**

- 3.11.41 The Council has a defined officer responsible for monitoring and managing planning obligations and the details of agreed planning obligations are held on an electronic database in order to track compliance as the development proceeds. The Council will liaise with developers (and applicants) and use other means of monitoring including site inspections, to ensure that planning obligations are completed by the agreed date or trigger. Large developments are also required to submit an annual update report until the development is complete outlining progress on the development to date.
- 3.11.42 The Council will report the results of monitoring and compliance with S106 agreements annually, including the total value of financial contributions received and spent.

### **Wider Regeneration/Improvement Projects**

- 3.11.43 In some cases, wider regeneration or improvement projects across the borough may include enhancement of a number of factors, such as the public realm, economic health and transport accessibility of the locality. This is particularly likely in the Council's Regeneration and Growth Area or where a development is located in one of the town centres identified in the Core Strategy as a Major, District, or local Town Centre. In such cases, a financial contribution towards such overarching projects may be secured by the Council to mitigate against multiple impacts. Any financial contributions secured will be based on negotiations across the individual topic areas in this SPD and any other site specific issues.

### **100% or Mostly Affordable Housing Schemes**

- 3.11.44 The Council acknowledges that schemes that incorporate affordable housing provide an important social benefit and that its provision can in some instances impact upon the financial viability of a development. Despite this, affordable housing like other forms of residential development, does have an impact on social infrastructure and surrounding services. Mitigating the impacts of all types of development is critical to establishing sustainable and balanced communities.

- 3.11.45 Census studies are able to demonstrate that occupation levels per unit of floorspace in affordable housing are often greater than other forms of accommodation. For that reason the basis for negotiations with applicants on these schemes will be similar to all other schemes, however the Council does understand that the comparative profitability of affordable housing schemes is lower and to some extent affordable housing schemes are already providing a community benefit.
- 3.11.46 Striking a balance between facilitating the provision of affordable housing whilst providing an appropriate level of social infrastructure and supporting services is required to achieve truly sustainable communities and meet the Council's strategic aims.

## 4. Procedure for Securing Planning Obligations

- 4.1 The Council's objectives are to make the handling of planning obligations more efficient, speed up decision-making and provide clear guidance to applicants seeking planning permission. The Council, working closely with applicants and other stakeholders, will seek to ensure a high standard of service and that applications subject to planning obligations are determined within the Department of Communities and Local Government (DCLG) target periods for decisions where possible.
- 4.2 The Council expects the extent of planning obligations to be determined at pre-application stage (based on the information in this SPD and discussions with Council Officers and other relevant agencies) and explicit reference to the proposed planning obligation types and quantum's to be submitted as supporting information with any planning application, recognising that the scope of proposed obligations may occasionally change in response to comments made by organisations and individuals during consultation on the planning application.
- 4.3 In cases where issues of financial viability arise, negotiations will be undertaken by the planning officer and assisted where appropriate by officers representing the various Council service areas.
- 4.4 Where the planning officer is minded to recommend an application for approval, the agreed 'Heads of Terms' outlining the planning obligations required will be reported to councillors along with all other material considerations as part of the planning committee report. The planning officers recommendation for approval will usually set out the grant of planning permission subject to any appropriate conditions and the signing of a S106 agreement.
- 4.5 All finalised S106 agreements (or unilateral undertakings) will be placed on the Statutory Planning Register and Local Land Charges Register.
- 4.6 Table 4.1 below summarises the process by which planning obligations are negotiated and secured in the borough.

**Table 4.1 Process for negotiating and securing planning obligations**

<b>PRE-APPLICATION STAGE</b>	
Prior to initiating pre-application discussions with the Council	Applicant needs to consider the relevant policies, legislation and all material considerations in relation to their development proposal including the information in this SPD.
Pre-application discussions	Applicant provides initial proposals for discussion with the case officer. Applicants should provide their own initial assessment of the impact of the development and suggest any likely required planning obligations (both in-kind and financial)
	Case officer will provide advice, without prejudice, on: <ul style="list-style-type: none"> <li>- their initial assessment of the impacts of the proposal and whether it is acceptable</li> <li>- indicative planning obligation heads of terms likely to be required to mitigate likely impacts, and the nature and scale of the obligations</li> <li>- the information that will be required to be submitted in order to make the application valid, including whether or not a financial viability assessment is required</li> </ul>
Prior to submitting a planning application	Case officer and applicant discuss and agree the heads of terms for the development. Applicants should prepare their planning application for submission, in accordance with the Council's Local List including a CIL form and planning obligations statement summarising the Heads of Terms.
<b>PLANNING APPLICATION STAGE</b>	
Planning application submission	Once an application is submitted it will be checked by the case officer to ensure that it contains all of the necessary information, and if so, it will be validated. The case officer may contact the applicant (or their agent) to discuss the likely timescales to prepare the draft agreement if this has not been discussed at pre-application stage. Council's solicitor will begin drafting the agreement if this has not already started at pre application stage.
Consultation and assessment of the application	Consultation on the planning application will be carried out in line with the Council's Statement of Community Involvement. The public can comment on any aspect of a scheme including planning obligations and the case officer will consider any representations made on the application in the context of the submitted 'planning obligations statement' (heads of terms). Case officer assesses the application and the possible planning obligations resulting from the heads of terms, application documents, internal and external consultation, giving consideration to material considerations including this SPD and a financial viability assessment (where applicable).
Officer's Recommendation	If the impacts cannot be mitigated by obligations (and/or conditions imposed to address) at an appropriate level, the application is recommended for refusal. If the case officer considers the proposal to be acceptable and agreement has been reached with the applicant on the necessary planning obligations, the case officer will draft a report including a recommendation to grant planning permission subject to completion of a S106 agreement by the statutory end date or within one month of the committee meeting, whichever is sooner.
Decision	The Council's planning committee considers the application including the planning obligations heads of terms. The decision to grant planning permission would normally be a decision in principle subject to the completion of a S106 agreement within a specified period of time within the statutory timeframe. The Council aims to have the S106 agreement draft ready prior to the planning

	committee.
<b>POST DECISION RESOLUTION</b>	
Following the decision to grant planning permission	Legal Services and the case officer, in liaison with the applicant's solicitors or other representatives, will issue a final draft for approval (engrossments) and signature by all parties.
Completion of legal agreement	On completion and signing of the S106 agreement, planning permission will be formally issued. The completed agreement will be registered as a local land charge against the land and a copy placed on the local land charges register and the planning register. A copy of the agreement will be scanned and available to view on the Council's website.
If the applicant is aggrieved by the decision of the Council	Applicants may appeal to the Secretary of State, unless the Secretary of State, agrees to an extension of time the applicant should give notice of appeal within six months of the decision.
Modification of obligations	The terms of a planning obligation may not be modified or discharged except by legal agreement between the Council and the applicant, or after 5 years there is a right of appeal to the Secretary of State.
<b>MONITORING</b>	
	Details of agreed planning obligations are held on an electronic database in order to track compliance. and ensure that the obligations are met. S106 officers monitor agreements to ensure that payments and obligations are received and completed in accordance with the agreement and that payments received by the Council are spent on appropriate projects within the required timeframes. Copies of the Council's S106 agreements are available on its website. Applicants are required to submit annual update reports summarising the number of units completed and other key milestones.

## 5. Review and Monitoring

5.1 The Council will measure the performance of planning obligations as part of its LDF annual monitoring report. However it is also appropriate to ensure that the effectiveness of this SPD is monitored and reported on. The Council has therefore established the following set of monitoring requirements in respect of this SPD:

- The level of contributions being achieved and compliance with the requirements of the SPD;
- Monitoring time taken for decisions where a planning obligation has been agreed as part of the application; and
- Monitoring of delivery (i.e. the completion of obligations, including those to be undertaken by delivery agents other than the developer).

5.2 To take into account significant changes in circumstances that would affect the appropriateness of the requirements in this SPD, the document will be reviewed periodically. The review will take account of:

- The changing needs for facilities and services;
- The adoption of emerging LDF documents;
- Further alterations or reviews of the London Plan (2011);
- Changes to central government guidance;
- Indexation of contributions; and
- Changes to CIL that affect how planning obligations can be used and secured.

## 6. Professional, Legal and Monitoring Fees

- 6.1 The Council incurs substantial costs in assessing the requirement for planning obligations in relation to planning applications. This includes reviewing financial viability assessments and the negotiation and the drafting of individual Section 106 (S106) agreements. These are over and above the normal costs of dealing with planning applications, for which applicants already pay a fee. Following completion of a S106 agreement, the applicant or the Council may find it necessary to modify an agreement. The Council incurs further costs in negotiating and drafting variations to the agreement.
- 6.2 The Council maintains a database of all current agreements and monitors compliance against set targets and triggers. This includes maintaining contact with developers before and during construction, site inspections, legal advice and in the collection and accounting for financial contributions. In certain instances, agreements allow for the subsequent submission of detailed proposals for the provision or payment for infrastructure. These necessitate further technical and legal advice, negotiations and approvals.
- 6.3 For the purposes of this SPD the Council will charge professional, legal and monitoring fees. Applicants are expected to fully reimburse the Council's legal, professional and monitoring costs associated with drafting, checking and monitoring S106 agreements, and checking and monitoring unilateral undertakings.

### Professional Fees

- 6.4 For applications where the Council expects that significant professional time or the use of external consultants will be necessary, fees will be charged. Applicants will normally be given an estimate of the expected cost of professional fees, particularly in cases where external consultants are used.
- 6.5 In the event that external consultants are required, such as in the case of providing independent expert advice on financial viability assessments submitted as part of an application to the Council, quotes will be provided to the applicant and payment will be required on signing of the agreement.
- 6.6 The Council's full professional fees will also have to be paid in the event of the agreement or undertaking not being completed where planning permission is refused or where the developer does not proceed with the development or proposal.

### Legal Fees

- 6.7 Applicants will be expected to meet all legal costs associated with the drafting, negotiating, checking and agreeing of a S106 agreement or checking and agreeing a unilateral undertaking.
- 6.8 The Council will require an undertaking from the solicitor acting on behalf of the applicant to pay the Council's reasonable legal and professional costs associated with the preparation of the S106 agreement or with approving a unilateral undertaking at the beginning of the process. Where a solicitor or other professional advisor is not acting on behalf of the applicant, the Council may ask for the deposit of a reasonable sum, having regard to the likely complexity of the matter.

- 6.9 The Council’s solicitor will charge applicants at an hourly rate for work undertaken. The Council will, where requested, provide applicants with an estimate of the costs at the outset of a new case.
- 6.10 The legal fees (or balance of legal fees where a payment on account of costs has been made) will be payable at the time of completing the S106 agreement or unilateral undertaking. The Council’s full legal fees will also have to be paid in the event of the agreement or undertaking not being completed where planning permission is refused or where the developer does not proceed with the development or proposal.

## Monitoring Fees

- 6.11 The cost of administration and the monitoring of planning obligations, once entered into, will be financed through monitoring fees applied to individual S106 agreements and unilateral undertakings. The total monitoring charge will vary depending on the number and complexity of the clauses in the S106 agreement or undertaking and will be based on the Council’s reasonable assessment of the likely time required to monitor the S106 agreement or undertaking.
- 6.12 The total value of any planning obligation will exclude the monitoring fees set out in this section. The monitoring fees are additional and will be added to the final cost. The basis for the monitoring fees charged is set out below and will be reviewed and updated annually to reflect inflation and increases in the costs incurred by the Council.

**Table 6.1 – Monitoring Charges\***

Number of affordable housing units	1-10 units	£250 per unit
	11-30 units	£3,000
	31-60 units	£6,000
	61-150 units	£10,000
	151-300 units	£15,000
	301+ units	£25,000
Type I clause	Non-financial clauses that involve the approval of a standard document and financial clauses for small payments with a single trigger and spend project.	£500
Type II clause	Financial clauses involving large payments, multiple trigger points, and/or multiple spend projects, approval of a non-standard document or complex non-financial clause.	£750
Type III clause	Non standard complex clauses.	Case by case

\* Subject to a total minimum fee of £500 per S106 agreement or unilateral undertaking.

- 6.13 If an agreement is exceptionally complicated and difficult to monitor (e.g. possibly in the case of a large strategic application or a phased development over a long period) the Council may seek a monitoring fee over and above the standard ‘Type I’ and ‘Type II’ clauses. Similarly, the Council will also apply a discount to the standard monitoring fee where economies of scale would streamline monitoring requirements and thereby reduce the monitoring time required.

- 6.14 Planning obligations will be monitored to ensure that they are undertaken or paid at the agreed dates or trigger points. The spending of received contributions will also be closely monitored to ensure that they are spent by the Council or other agencies on what was agreed and within the required time period set out in the agreement. Where contributions have not been spent by the Council within the required time period, they will be returned.
- 6.15 The details of agreed planning obligations will be held on an electronic database in order to track compliance as the development proceeds. The Council will liaise with applicants and use other means of monitoring, including site inspections, to ensure that applicants discharge their obligations at the agreed date or trigger. Where financial obligations are due to the Council these become payable on the date or at the trigger point specified in the agreement. In the event that payments are not received by the due date, a late penalty payment will be applied at 4% above the base rate, and the Council may take action through civil recovery procedures to secure compliance with obligations.
- 6.16 The Council will report the results of monitoring and compliance with S106 agreements and unilateral undertakings annually. The report will provide details of the S106 agreements entered into, unilateral undertakings made to the Council, payments received, and the completion of schemes funded or part funded by S106 contributions.
- 6.17 The monitoring payment, like legal and professional costs, will be required on signing of the agreement, however, in the event that the agreement or undertaking is not completed where planning permission is refused or where the developer does not proceed with the development or proposal, monitoring fees will not be required.

### **Variations of Planning Obligations**

- 6.18 Where a S106 agreement contains a requirement to review or submit later detailed proposals for facilities or services, or where the applicant is seeking to modify the S106 agreement, the same arrangements will apply for professional and legal fees as applied to the original agreement, and further monitoring costs may therefore be incurred.

## 7. Glossary

### **Affordable Housing**

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

### **Affordable Rent**

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable rent is subject to rent controls that require no more than 80% of the local market rent (including service charges, where applicable).

### **Cascade Mechanism**

A cascade is a mechanism that enables the form and/or quantum of affordable housing to be varied if a certain event happens. Cascades respond to rises or decreases in the site development costs and incomes that may render certain levels of provision financially either viable or unviable.

### **Common Housing Register**

The common housing register is a list of people who have applied for housing in Lewisham.

### **Community Infrastructure Levy (CIL)**

A levy that local authorities can choose to charge on new developments in their area. Part 11 of the Planning Act 2008 sets out the legislative framework and regulations introduced it in April 2010. It has since been amended by further regulations in 2011, 2012 and 2014. The money secured by the local authority is to be spent upon local and strategic infrastructure which may include roads and other transport needs, parks, schools, sports centres, emergency services and community facilities.

### **Conditions / Planning Conditions**

Planning permission is usually subject to certain conditions. These conditions need to be met in order for development to be allowed to proceed. They will generally deal with less complex issues than those dealt with by way of Planning Obligations (e.g. time limits for implementation, the submission and approval of further details, restrictions on the use). What can and cannot be the subject of planning conditions is the subject of extensive legal and government policy tests.

### **Development Plan Document (DPD)**

A Local Plan that has been drawn up by the local planning authority in consultation with the community, has been subject to independent testing and has the weight of development plan status. The terminology 'Development Plan Document' has been replaced with 'Local Plan' for new documents, but remains for pre-existing documents (i.e. Lewisham Core Strategy DPD, 2011).

### **Habitable Room**

A room within a dwelling, the main purpose of which is for sleeping, living or dining. It is any room with a window that could be used to sleep in, regardless of what it is actually used for. This excludes toilets, bathrooms, landings, halls and lobbies, and also excludes kitchens with an overall floor area of less than 13 m<sup>2</sup>. This excludes rooms which cannot function for the

purposes for which they are intended by reason of an inadequate size, height, shape or daylight.

### **Heads of Terms**

A document setting out the particular items of a Section 106 agreement (including in-kind works, financial contributions and any restrictions on the land that may be relevant) as agreed in principle between the Council and applicant.

### **Homes and Communities Agency**

A statutory public body whose role is to fund and regulate Registered Providers in England.

### **Housing Association**

Independent societies, bodies of trustees or companies established for the purpose of providing low-cost social housing for people in housing need on a non-profit-making basis. Any trading surplus is used to maintain existing homes and to help finance new ones. They are now the United Kingdom's major providers of new homes for rent, while many also run shared ownership schemes to help people who cannot afford to buy their own homes outright.

### **Intermediate Housing**

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can be shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

### **Key Worker Housing**

Housing that is reserved or allocated for people who are given priority by virtue of their employment to ensure that employees are retained in essential public services. This includes those who work in health, education, police and emergency services.

### **Lifetime Homes**

Lifetime Homes are ordinary homes incorporating [16 Design Criteria](#) that can be universally applied to new homes to add to the comfort and convenience of the home and support the changing needs of individuals and families at different stages of life.

### **Local Development Framework (LDF)**

The Local Development Framework is a portfolio, or a 'folder', of Local Development Documents which will provide the local planning authority's policies for meeting the community's economic, environmental and social aims for the future of their area where this affects the development and use of land.

### **Local Plan**

A Local Development Document that has been drawn up by the local planning authority in consultation with the community, has been subject to independent testing and has the weight of development plan status.

### **Major Development**

Any residential or mixed use development creating 10 or more dwellings, if that is not known, where the site area is 0.5 hectares or more. For other types of development, a major site is one where the floorspace to be built is 1, 000 square metres or more, or the site area is 1 hectare or more.

### **Material Consideration**

A legal term describing a matter or subject which is relevant (material) for a local authority to consider when using its powers under planning law.

## **Planning Obligation**

Planning obligations secured through Section 106 agreements or unilateral undertakings are Legal Agreements in the context of the grant of planning permission. Planning obligations are intended to make development acceptable which would otherwise be unacceptable in planning terms.

## **Public Realm**

Public Realm – This includes exterior places, linkages and built form elements, excluding green open spaces, that are physically and/or visually accessible regardless of ownership. These elements can include, but are not limited to, streets, pedestrian ways, bikeways, bridges, plazas, nodes, squares, transportation hubs, gateways, landmarks and building interfaces.

## **Public Transport Accessibility Level (PTAL)**

Provides a methodology for assessing the relative ease of access of a location to the public transport network. PTAL 1 is 'very poor' with PTAL 6 being 'excellent'.

## **Registered Provider**

Registered Provider (RP) is the technical name for social landlords that are registered with the Tenant Services Authority. Most are housing associations, but there are also trusts, co-operatives and companies.

## **Social Rented (Social Housing)**

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

## **Standard charges**

Standard charges are a set of general formulae that are used to estimate the amount of contributions that are likely to be sought for a particular type of development, based on a local planning authority's policies and evidence of the common impacts of development. These will then be enforced through a planning obligation.

## **Supplementary Planning Document (SPD)**

Documents which add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

## **Transport for London (TfL)**

A statutory body appointed by the Mayor of London for the purpose of providing public transport within London and for delivering an integrated and sustainable transport strategy for London.

## **Unilateral Undertakings**

Instead of agreeing obligations through the standard process of negotiation and Agreement between the council and developer, developers may prepare the terms of a planning obligation on their own, without prior discussion with the council. These will then be submitted to the council. If the terms are acceptable the fact that the document has not been negotiated should not in itself be seen as a bar to the grant of permission. Where a Unilateral Undertaking does not meet the Council's objective's, planning permission should be refused.

**Vicinity**

In this document means nearby and within the surrounding area so as to ensure a geographical relationship between the planning obligation and the development.

**Wheelchair Accessible Housing**

This refers to homes built to meet the standards set out in the South East London Housing Partnership Wheelchair Housing Design Guidelines (August 2011).

*Note: References made in these definitions to any organisation, body or guidance will apply to successor organisation, body or guidance or arrangements, as changes may occur over time.*

## 8. Abbreviations

**CIL** – Community Infrastructure Levy

**DCLG** - Department for Communities and Local Government

**DMLP** – Development Management Plan

**DPD** - Development Plan Document

**LDF** - Local Development Framework

**S106** - Section 106

**SCI** - Statement of Community Involvement

**SPD** - Supplementary Planning Document

**TfL** – Transport for London

## 9. Appendix – Policy Pointers

## Appendix – Policy pointers

Topic	Core Strategy (June 2011)	Development Management Local Plan Policies	London Plan (July 2011) Policies	National and Other Regional Policies & Guidance	Other Relevant Guidance
<p><b>Affordable Housing</b></p>	<p><b>Core Strategy Policy 1:</b> Housing provision, mix and affordability</p>	<p><b>DM Policy 7:</b> Affordable rented housing</p>	<p><b>Policy 3.2</b> Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes.</p> <p><b>Policy 3.8</b> Housing Choice</p> <p><b>Policy 3.9</b> Mixed and Balanced Communities</p> <p><b>Policy 3.10</b> Definition of affordable housing</p> <p><b>Policy 3.11</b> Affordable housing targets</p> <p><b>Policy 3.12</b> Negotiating affordable housing on individual private residential and mixed-use schemes</p> <p><b>Policy 3.13</b> Affordable housing thresholds</p> <p><b>Policy 8.2</b> Planning Obligations</p>	<p><b>NPPF</b> – Paragraphs 47-55</p> <p>Funding Prospectus: Mayor’s Housing Covenant 2015-18 Programme (2013)</p> <p>London Housing Strategy (2010)</p> <p>Draft London Housing Strategy (2013)</p> <p>Draft Further Alterations to the London Plan (FALP) (2014)</p> <p>Revised Early Minor Alterations (REMA) to the London Plan (2013)</p> <p>Mayor of London’s Housing Supplementary Planning Guidance (2012)</p>	<p>Lewisham Housing Strategy (2009-2014)</p> <p>Affordable Housing Viability Study (2009)</p> <p>Lewisham Housing Conversions Study (2012)</p> <p>Lewisham Housing Market Assessment 2007-2008 (2009)</p> <p>Lewisham Housing Strategy South East London Strategic Housing Market Assessment 2009</p>
<p><b>Wheelchair Housing</b></p>	<p><b>Core Strategy Policy 1:</b> Housing provision, mix and affordability</p>	<p><b>DM Policy 7:</b> Affordable rented housing</p>	<p><b>Policy 3.8</b> Housing Choice</p> <p><b>Policy 8.2</b> Planning Obligations</p>	<p><b>NPPF</b> – Paragraphs 50</p> <p>Mayor of London’s Housing Supplementary Planning Guidance (2012)</p> <p>Homes for London The London Housing Strategy: Draft for London Assembly (2014)</p>	<p>Lewisham Housing Strategy: Homes for the future: raising aspirations, creating choice and meeting need (2009-2014)</p> <p>South East London Housing Partnership Wheelchair Homes Design Guidelines (2012)</p>

Topic	Core Strategy (June 2011)	Development Management Local Plan Policies	London Plan (July 2011) Policies	National and Other Regional Policies & Guidance	Other Relevant Guidance
				Funding Prospectus: Mayor's Housing Covenant 2015-18 Programme (2013)	
<b>Local Labour and Business</b>	<p><b>Policy 3</b> Strategic Industrial Locations and Local Employment Locations</p> <p><b>Policy 4</b> Mixed Use Employment Locations</p> <p><b>Policy 5</b> Other employment locations</p>	<p><b>Policy 4</b> Conversions of office space</p> <p><b>Policy 9</b> Mixed use employment locations</p> <p><b>Policy 10</b> Local employment locations</p> <p><b>Policy 11</b> Other Employment Locations</p> <p><b>Policy 13</b> Location of Main Town Centre Uses</p>	<p><b>Policy 4.1</b> Developing London's Economy</p> <p><b>Policy 4.2</b> Offices</p> <p><b>Policy 4.3</b> Mixed Use Development and Offices</p> <p><b>Policy 4.4</b> Managing Industrial Land and Premises</p> <p><b>Policy 4.7</b> Retail and Town Centre Development</p> <p><b>Policy 4.8</b> Supporting a Successful and Diverse Retail Sector</p> <p><b>Policy 4.10</b> New and Emerging Economic Sectors</p> <p><b>Policy 4.11</b> Encouraging a Connected Economy</p> <p><b>Policy 4.12</b> Improving Opportunity for All</p> <p><b>Policy 8.2</b> Planning Obligations</p>	<b>NPPF</b> – Paragraphs 18-21	<p>Lewisham Employment Land Study (2009)</p> <p>Shaping our future: Lewisham's Sustainable Community Strategy 2008-2020</p> <p>Lewisham Employment Study 2008</p> <p>Lewisham Local Cultural Strategy</p> <p>Lewisham Economic Development Business Plan 2004</p> <p>Retail Capacity Study (2009)</p> <p>Pubs in Lewisham evidence base study (2013)</p> <p>Hot Food Take-away shops: and evidence base study (2013)</p>
<b>Employment Floorspace</b>	<p><b>Policy 3</b> Strategic Industrial Locations and Local Employment Locations</p> <p><b>Policy 4</b> Mixed Use</p>	<p><b>Policy 4</b> Conversions of office space</p> <p><b>Policy 9</b> Mixed use employment locations</p> <p><b>Policy 10</b> Local</p>	<p><b>Policy 4.1</b> Developing London's Economy</p> <p><b>Policy 4.2</b> Offices</p> <p><b>Policy 4.3</b> Mixed Use Development and Offices</p>	<b>NPPF</b> – Paragraphs 18-21	<p>Lewisham Employment Land Study (2009)</p> <p>Shaping our future: Lewisham's Sustainable Community Strategy 2008-2020</p>

Topic	Core Strategy (June 2011)	Development Management Local Plan Policies	London Plan (July 2011) Policies	National and Other Regional Policies & Guidance	Other Relevant Guidance
	<p>Employment Locations</p> <p><b>Policy 5</b> Other employment locations</p> <p><b>Policy 6</b> Retail hierarchy and location of retail development</p>	<p>employment locations</p> <p><b>Policy 11</b> Other Employment Locations</p> <p><b>Policy 13</b> Location of Main Town Centre Uses</p> <p><b>Policy 14</b> District Centres Shopping Frontages</p> <p><b>Policy 15</b> Neighbourhood Local Centres</p> <p><b>Policy 16</b> Local Shopping Parades and Corner Shops</p>	<p><b>Policy 4.4</b> Managing Industrial Land and Premises</p> <p><b>Policy 4.7</b> Retail and Town Centre Development</p> <p><b>Policy 4.8</b> Supporting a Successful and Diverse Retail Sector</p> <p><b>Policy 4.10</b> New and Emerging Economic Sectors</p> <p><b>Policy 4.11</b> Encouraging a Connected Economy</p> <p><b>Policy 4.12</b> Improving Opportunity for All</p> <p><b>Policy 8.2</b> Planning Obligations</p>		<p>Lewisham Employment Study 2008</p> <p>Lewisham Local Cultural Strategy</p> <p>Lewisham Economic Development Business Plan 2004</p> <p>Retail Capacity Study (2009)</p> <p>Pubs in Lewisham evidence base study (2013)</p> <p>Hot Food Take-away shops: and evidence base study (2013)</p>
Transport	<p><b>Policy 14</b> – Sustainable Movement and Transport</p>	<p><b>Policy 21</b> Mini cabs and taxi offices</p> <p><b>Policy 29</b> Car Parking</p>	<p><b>Policy 6.1</b> Strategic approach</p> <p><b>Policy 6.3</b> Assessing effects of development on transport capacity</p> <p><b>Policy 6.5</b> Funding Crossrail and other strategically important infrastructure (CIL prob not relevant)</p> <p><b>Policy 6.7</b> Better streets and surface transport</p> <p><b>Policy 6.9</b> Cycling</p> <p><b>Policy 6.10</b> Walking</p> <p><b>Policy 6.11</b> Smoothing Traffic Flow and Tackling</p>	<p><b>NPPF</b> – Paragraphs 29-41</p>	<p>The Infrastructure Delivery Plan (2011)</p> <p>Deptford and New Cross Transport Infrastructure Study (2007)</p> <p>North Lewisham Links Strategy (2007)</p> <p>Deptford and New Cross Masterplan (2007)</p> <p>Lewisham Town Centre Transport Study (2010)</p> <p>Lewisham Town Centre Transport Study Report Addendum (2012)</p>

Topic	Core Strategy (June 2011)	Development Management Local Plan Policies	London Plan (July 2011) Policies	National and Other Regional Policies & Guidance	Other Relevant Guidance
			Congestion <b>Policy 6.12</b> Road Network Capacity <b>Policy 6.13</b> Parking <b>Policy 8.2</b> Planning Obligations		Lewisham Borough Wide Transport Study (2010) Lewisham Local Implementation Plan (2011)
Public Realm	<b>Policy 12</b> Open Space and Environmental Assets <b>Policy 15</b> High Quality Design for Lewisham	<b>Policy 19</b> Shopfronts, Signs and Hoardings <b>Policy 25</b> Landscaping and Trees <b>Policy 27</b> Lighting <b>Policy 30</b> Urban Design and Local Character <b>Policy 35</b> Public Realm and Street Furniture	<b>Policy 6.9</b> – Cycling <b>Policy 6.10</b> – Walking <b>Policy 7.3</b> – Designing out Crime <b>Policy 7.4</b> – Local Character <b>Policy 7.5</b> – Public Realm <b>Policy 7.6</b> – Architecture <b>Policy 7.18</b> – Protecting Local Open Space and Addressing Local Deficiency <b>Policy 7.19</b> – Biodiversity and Access to Nature <b>Policy 7.21</b> – Trees and Woodland <b>Policy 8.2</b> Planning Obligations	<b>NPPF</b> – Paragraphs 35, 57 and 58	Lewisham’s Control of pollution and noise from demolition sites Code of practice (2008) Lewisham Noise Mapping Study (2012) Lewisham Air Quality Action Plan (2008) London Borough of Lewisham Streetscape Guide Lewisham Borough Wide Character Study (2010) North Lewisham Links Strategy (2007) Deptford and New Cross Masterplan (2007)
Childrens Play Space	<b>Policy 12</b> Open Space and Environmental Assets <b>Policy 15</b> High Quality Design for Lewisham	<b>Policy 19</b> Shopfronts, Signs and Hoardings <b>Policy 25</b> Landscaping and Trees <b>Policy 27</b> Lighting	<b>Policy 3.6</b> Children and young people’s play and informal recreation facilities <b>Policy 8.2</b> Planning Obligations	Recreation Mayor of London Supplementary Planning Guidance (2012)	Children & Young People’s Plan 2012-2015

Topic	Core Strategy (June 2011)	Development Management Local Plan Policies	London Plan (July 2011) Policies	National and Other Regional Policies & Guidance	Other Relevant Guidance
		<p><b>Policy 30</b> Urban Design and Local Character</p> <p><b>Policy 35</b> Public Realm and Street Furniture</p>			
<b>Carbon Offsetting</b>	<p><b>Policy 7</b> Climate Change and Adapting to the Effects</p> <p><b>Policy 8</b> Sustainable Design and Construction</p>	<b>DM Policy 22</b> Sustainable Design and Construction	<p><b>Policy 5.2</b> Minimising Carbon Dioxide Emissions</p> <p><b>Policy 5.3</b> Sustainable Design and Construction</p> <p><b>Policy 5.4</b> Retrofitting</p> <p><b>Policy 8.2</b> Planning Obligations</p>	<b>NPPF</b> – Paragraphs 94 - 98	<p>Lewisham Renewables Evidence Base Study (2010)</p> <p>Lewisham Town Centre Local Plan Low Carbon and Decentralised Energy Strategy Recommendations</p>
<b>Environmental Protection</b>	<b>Policy 9</b> Air Quality	<p><b>Policy 23</b> Air Quality</p> <p><b>Policy 26</b> Noise and Vibration</p> <p><b>Policy 28</b> Contaminated Land</p>	<p><b>Policy 7.14</b> Improving Air Quality</p> <p><b>Policy 7.15</b> Reducing noise and enhancing soundscapes</p> <p><b>Policy 8.2</b> Planning Obligations</p>	<b>NPPF</b> – Paragraphs 109, 123 and 124	<p>Lewisham’s Control of pollution and noise from demolition sites Code of practice (2008)</p> <p>Lewisham Noise Mapping Study (2012)</p> <p>Lewisham Air Quality Action Plan (2008)</p> <p>London Borough of Lewisham Streetscape Guide</p>
<b>Flood Risk and Water Management</b>	<p><b>Policy 10</b> Managing and Reducing the Risk of Flooding</p> <p><b>Policy 11</b> River and Waterways network</p>		<p><b>Policy 5.3</b> Sustainable Design and Construction</p> <p><b>Policy 5.12</b> Flood Risk Management</p> <p><b>Policy 5.13</b> Sustainable Drainage</p> <p><b>Policy 5.14</b> Water Quality</p>	<p><b>NPPF</b> Paragraphs 94, 95, 99, 100, 101, 102, 103 and 104</p> <p>Flood and Water Management Act 2010</p> <p>London Climate Change Adaptation Strategy (2008)</p> <p>The London Rivers Action</p>	<p>Local Biodiversity Action Plan – A Natural Renaissance for Lewisham</p> <p>Lewisham Strategic Flood Risk Assessment (2008)</p> <p>Lewisham Flood Risk and Development Sequential Test</p>

Topic	Core Strategy (June 2011)	Development Management Local Plan Policies	London Plan (July 2011) Policies	National and Other Regional Policies & Guidance	Other Relevant Guidance
			and Wastewater Infrastructure <b>Policy 5.15</b> Water Use and Supplies	Plan Mayor's Supplementary Guidance: Sustainable Design and Construction Thames Catchment Flood Management Plan and TE2100 Plan Thames River Basin Management Plan	(2009) Ravensbourne River Corridor Improvement Plan (2010)
<b>Biodiversity</b>	<b>Policy 12</b> Open space and environmental assets	<b>DM Policy 24</b> Biodiversity, living roofs and artificial playing pitches DM Policy 25 Landscaping and Trees	<b>Policy 5.10</b> Urban Greening <b>Policy 5.11</b> Green Roofs and Development Site Environs <b>Policy 7.19</b> Biodiversity and Access to Nature <b>Policy 7.12</b> Trees and Woodland <b>Policy 8.2</b> Planning Obligations	NPPF Paragraphs 7, 99, 109, 113, 114, 118, 119 and 125 East London Green Grid Framework SPG Mayor of London's Biodiversity Strategy (2002)	Local Biodiversity Action Plan – A Natural Renaissance for Lewisham

<b>COUNCIL</b>		
<b>Report Title</b>	CONSTITUTIONAL CHANGES	
<b>Key Decision</b>	N/A	
<b>Ward</b>	All	
<b>Contributors</b>	Head of Law	
<b>Class</b>	Part 1	Date 17 September 2014

## 1. Summary

This report proposes changes to the Council's Constitution which are proposed by the Council's Constitution Working Party (CWP). They reflect changes in the law and practical recommendations from CWP.

## 2. Purpose

The purpose of the Constitution is to set out the principles for Council decision making and the procedures governing the conduct of Council business. The purpose of the amendments proposed in this report is to ensure that the Constitution remains up to date and fit for purpose.

## 3. Recommendations

- 3.1 That Council approves the proposed amendments as detailed in Appendix 1 to this report, the most significant of which are summarised in paragraph 6.
- 3.2 Should the Council agree to the change set out at paragraph 6.21 of this report, that the Council consider whether to make any amendment to the membership of the Planning Committees, and if so to appoint to those committees.

## 4. Background

- 4.1 The Council first adopted a Constitution when it moved to a Mayoral model of political governance in 2002. It was then, and it remains, a legal requirement for the Council to adopt a Constitution and keep it up to date. Under Section 9P Local Government Act 2000, the Constitution must contain:-

- a copy of the Council's Standing Orders;
- a copy of the Council's Member Code of Conduct;
- such information as the Secretary of State directs; and
- such other information as the Council considers appropriate.

- 4.2 The Constitution as currently drafted includes all elements required by law and Secretary of State direction, and it is not proposed that the Council diverge from these.
- 4.3 Since the introduction of the Constitution, the Council has amended it on a number of occasions to ensure that it reflects changes in the law and current practice. Amendments have included such matters as:-
- the creation of a Housing Select Committee;
  - the inclusion of a provision that Overview and Scrutiny chairs and vice chairs should reflect the political composition of the Council;
  - the creation of an Audit Panel;
  - the procedure for dealing with Council questions;
  - changes to reflect new law relating to the ethical framework and the abolition of Standards for England;
  - adoption of a new Member Code of Conduct under the Localism Act
  - new provisions introduced in relation to new licensing responsibilities
  - changes to financial regulations
  - incorporation of the Council's duties for public health and the creation of the Health and Wellbeing Board
  - the creation of Local Assemblies and the Positive Ageing Council
  - the introduction of a petition scheme
  - voting arrangements on budget matters.
  - Amendment to notice requirements to reflect new regulations

This is not an exhaustive list.

## **5. CWP**

- 5.1 The Constitution provides that CWP should advise it on the operation of its executive arrangements and make any proposals to the Council for changes to the Constitution it considers necessary. On the 3<sup>rd</sup> September 2014, CWP agreed to recommend to Council amendments to the Constitution as follows:-

### *General update*

- 5.2 CWP considered a report from the Head of Law which recommended the changes summarised in paragraphs 6.1 to 6.19 below. CWP endorsed all of those proposed amendments.

### *CWP recommendations*

- 5.3 Members of the CWP made a number of proposals which were approved. These are set out in paragraph 6.20 to 6.22.

*Business Panel proposals*

- 5.4 CWP also endorsed two proposals which were referred by the Overview and Scrutiny Business Panel. These are summarised at paragraphs 6.23 and 6.24 below.

**6. Proposed amendments to the Constitution**

- 6.1 In 2007 the Council received advice from Leading Counsel that under legislation that existed at that time, the Mayor did not qualify as a member of the Council, save for specific purposes which were defined in regulations. A number of changes were made at that time to reflect this legal advice. The Localism Act 2011 has now changed that legal position, so it is necessary to reflect the current law so that for all purposes the Mayor does qualify as a member of the Council. (see for example the proposed summary at paragraph 2, Article 2.6 and Article 7.4).
- 6.2 The responsibility for overview and scrutiny lead on equalities is duplicated in the terms of reference of both the Sustainable Development and Safer Stronger Select Committees. This is an error, and officers believe it was the intention of the Council that it appear within the Terms of Reference of Safer Stronger Select Committee only. It is proposed to rectify this error. (See Article 6.6, Sustainable Development Select Committee Terms of Reference)
- 6.3 The introduction of the Children and Families Act 2014 imposes duties for the provision of special education needs services up to the age of 25 years. As drafted the responsibilities of the Healthier Communities Select Committee has included overview and scrutiny functions in relation to education and training of all adults over 19 years of age and for people with disabilities. It is proposed that the terms of reference of the Healthier Communities Select Committee not cover those up to 25 years of age who have SEN, and that this function be transferred to CYP Select Committee. (See relevant Terms of Reference at Article 6.6).
- 6.4 At the time the current version of the Constitution was drafted, the Health and Wellbeing Board was yet to be established and the wording reflected that provisions relating to it would come into effect on the transfer of functions. The proposed wording reflects that this has now occurred. (See for example paragraph C32.2.b)
- 6.5 A new slightly modified employee code of conduct was agreed by officers under delegated authority but has not been incorporated into the Constitution as currently drafted. The new Code appearing at Part V of Appendix 1 is up to date.

- 6.6 Although a Housing Select Committee has been established , with responsibility for the overview and scrutiny of all housing functions, the remit for housing was not deleted from the Sustainable Development Select Committee. It is now proposed that it should be. (See relevant Terms of Reference at Article 6.6)
- 6.7 Members will note that the requirement for a recorded vote on budget matters, previously agreed by Council, is incorporated in the proposed latest version of the Constitution. (See part F3 (o) and (p))
- 6.8 Recording of Council meetings – Regulations which have been recently enacted change the right of the press and public in relation to the recording of Council proceedings with effect from 31<sup>st</sup> July. From that date, the public will be able to film or otherwise record public business at Council meetings for immediate or later transmission. Officers have drafted a protocol and inserted a requirement into the proposed amended constitution that recording of proceedings will be allowed in accordance with that protocol, which, it is suggested be included in the Constitution at Appendix 3 to that document. Members of CWP asked that this protocol be kept under review and if necessary amendments be brought forward so far as the law permits if any element of it proves to be impractical. (See paragraph C27)
- 6.9 So that all overview and scrutiny functions required by law are dealt with in the Constitution, a catch-all phrase is proposed for the terms of reference of the full Overview and Scrutiny Committee to the effect that any overview and scrutiny function not delegated elsewhere shall be the responsibility of the full Overview and Scrutiny Committee. (See Article 6.2)
- 6.10 It is proposed that the budget and policy framework rules be updated as set out in Part F of Appendix 1 to reflect the changes brought about to the budget process by the Localism Act 2011 and to replace now outdated statutory provisions.
- 6.11 Transparency provisions relating to the making of officer decisions have been amended by regulation and these are reflected at G32 in Appendix 1.
- 6.12 It is proposed that a new paragraph 16 be included at the end of part H which deals with employment, to the effect that the Council will prepare an annual pay policy statement as required by Section 38 Localism Act 2011.
- 6.13 The Executive Director for Resources and Regeneration has proposed changes to Financial Regulations. In summary these reflect changes in law and job title and are reflected in the proposed Part K in Appendix 1.

- 6.14 The Guidance Code for Members on Outside Bodies, attached to the Member Code of Conduct at Part V Ethics, has been updated to reflect current legislation e.g. changes to charitable purposes set out in the Charities Act 2011.
- 6.15 The current Members' Allowances Scheme has been included, though it is noteworthy that the Chief Executive has approached Sir Rodney Brooke to consider the local situation in Lewisham and to advise on the scale of Members' Allowances here. His report may be available for the September meeting of full Council and if changes are proposed and agreed, any newly approved scheme will be included in the Constitution and publicised.
- 6.16 An up to date chart of the Council's management structure has been included. (See Part VII)
- 6.17 Council is asked to note that the Mayor has agreed amendments to his scheme of delegation to reflect current law and the transfer of functions between directorates. These are included in Part VIII of Appendix 1 and Council is asked to note them. The scheme of delegation also reflects that decisions relating to public realm works over £100,000 are reserved to members.
- 6.18 Council is also asked to note the changes to the non-executive scheme of delegation which, like the Mayoral scheme is proposed to be amended only to reflect current law and transfer of functions across directorates. The Schemes of delegation appear at Part VIII to the draft amended Constitution which now appears at Appendix 1 to this report.
- 6.19 Out of date statutory references have been removed and where appropriate replaced with the law which has superseded them.
- 6.20 CWP members asked for a clause to be inserted in the Constitution that the delegation of powers to an Overview and Scrutiny Select Committee does not prevent that power being exercised by the full Overview and Scrutiny Committee. (See proposed paragraph 6.3 final sentence)
- 6.21 CWP members agreed that the provision that members of Strategic Planning Committee be drawn from membership of the other planning committees should be withdrawn, and that instead membership of Strategic Planning Committee should be open to all members of the Council. If this provision is agreed, the Council is asked to consider whether to make any changes to the membership of the Planning Committees, and if so to appoint in accordance with the wishes of the political groups. (See Article 9, Committees)
- 6.22 Currently the non-executive scheme of delegation in relation to planning matters does not require that matters be referred for member consideration whenever a member raises an objection to an

application. CWP agreed that officers should not have delegated authority to determine any application where a member makes an objection, and this should be specifically set out in the scheme of delegation. (See matters reserved to Planning Committee A, B & C and Strategic Planning Committee)

- 6.23 A request was received from the Overview and Scrutiny Business Panel that the Council be asked to amend the Constitution so that the number of members on the Business Panel be reduced to 10, from 11. This would reflect actual practice over recent years when one seat on Business Panel has been left vacant. This has been incorporated in the proposed amended constitution at Article 6.3.
- 6.24 A proposal was recommended that the overview and scrutiny of libraries transfer from Healthier Communities Select Committee to Safer Stronger Communities Select Committee. This was deemed appropriate given the likelihood that the need for scrutiny of health matters will be heavier in future in the light of integration of health and social care. (See Article 6.6 Healthier Communities Select Committee, paragraph (i) and 6.6 Safer Stronger Communities Select Committee, paragraph (j))

## **7. Legal implications**

- 7.1 The body of the report refers to new legal requirements in relation to filming and transparency. It also refers to the statutory basis for the Constitution. Amendments to the Constitution are a matter for full Council decision.
- 7.2 The Council is under a duty to have the Constitution available for public inspection at its offices and to provide a copy to anyone who requests it on payment of a reasonable fee. In practice a copy of the Constitution is made available on the Council's website.
- 7.3 The Openness of Local Government Bodies Regulations 2014 make provision for the recording, reporting and filming of Council meetings and for the recording and publication of certain officer decisions. These are reflected in the proposed amended protocol. The regulations do not allow recording etc of meetings from which the public have been excluded.
- 7.3 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.4 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

7.5 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

7.6 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

7.7 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

7.8 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

7.9 Members are reminded of the duty to secure best value under the Local Government Act 1999. The whole purpose of the amendments is

to secure continuous improvement in the administration of the Council's business.

**8. Crime & Disorder**

The Constitution is designed to embody sound decision making principles and a robust ethical framework to reduce the prospect of any potential wrong doing and to promote public confidence in local government.

**9. Equalities Implications**

There are no specific equalities implications

**10. Financial Implications**

There are no financial implications arising from this report except to note that it is proposed that the financial regulations set out in the Constitution be amended to reflect up to date law and best practice.

**BACKGROUND PAPERS**

Appendix 1 The proposed Constitution can be viewed at:

<http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=138&MIId=3290>

For further details please contact Kath Nicholson: 020 8314 7648



# London Borough of **Lewisham**

---

# **Constitution**

**September 2014**

## Contents

		<u>Page Nos.</u>
<b>PART I</b>	<b>SUMMARY</b>	<b>14</b>
<b>PART II</b>	<b>ARTICLES</b>	<b>22</b>
	Article 1 Aims and Purposes	23
	Article 2 Councillors and Elections	23
	Article 3 Citizens and the Council	25
	Article 4 The Council	26
	Article 5 Chairing the Council	29
	Article 6 Overview and Scrutiny	30
	Article 7 The Executive	45
	Article 8 Conflict Resolution	48
	Article 9 Committees	49
	Article 10 Local Choice	61
	Article 11 Ethics	61
	Article 12 Local Assemblies	61
	Article 13 Joint arrangements	62
	Article 14 Staff	64
	Article 15 Delegating decision making	68
	Article 16 Principles of decision making Including Key Decisions	69
	Article 17 Finance Contract and Legal Matters	73
	Article 18 Representation & Appeal Panels	74
	Article 19 Review of Constitution	74
	Article 20 Publication, Interpretation, Suspension	75
<b>PART III</b>	<b>LOCAL CHOICE FUNCTIONS</b>	<b>76</b>
<b>PART IV</b>	<b>PROCEDURE RULES – STANDING ORDERS</b>	<b>80</b>
	A. PURPOSE	81
	B. COUNCILLORS	81
	1. Term of office	81
	2. Entitlement to speak and vote	81
	3. Resignation	81
	4. Vacation of office for non-attendance	81
	5. Qualifying attendance	81

6.	Vacation of office – executive	82
7.	Qualifying attendance – executive	82
8.	Declaration of vacancy	82
9.	Filling of casual vacancy	82
10.	Period of office	83
11.	Declaration of acceptance of office	83
12.	Declaration of interests	83
C	COUNCIL PROCEDURE RULES	84
1	Types of meeting	84
2	Annual meeting	84
	(1) Where and when	
	(2) Business	
	(3) Notice	
3	Ordinary meetings	85
	(1) Where and when	
	(2) Business	
	(3) Notice	
4	Extraordinary meetings	86
	(1) Where and when	
	(2) Business	
	(3) Notice	
5	Notice of place of residence or alternative	87
6	Variation in order of business	87
7	Council Urgency committee	88
	(1) Business	
	(2) Who -Constitution of committee	
	(3) Quorum	
	(4) Reason for urgency	
	(5) Frequency	
	(6) Reports to full Council	
	(7) Interregnum	
	(8) Substitutes	
8	Who presides at Council meetings?	89
9	The Mayor and Deputies at Council	89
10	Duration of Council meeting.	89
11	Quorum for Council meetings	90
12	Political Group leaders	91

13	Questions by the public at Council meetings	91
14	Questions by Members at Council meetings	93
15	Motions	95
16	Rules of Debate	97
17	Right of reply	99
18	Motions which may be moved during debate	99
19	Closure Motions	100
20	Point of order	101
21	Personal Explanation	101
22	Voting	101
23	Minutes	103
24	Notice of Council meetings	104
25	Urgency	104
26	Record of attendance	105
27	Admission of the Public and Press	105
28	Adjournments	106
29	Disturbance and misconduct	106
30	Vacancies not to invalidate proceedings	107
31	Application of rules to committees, sub committees and the executive.	107
32	Health & Wellbeing Board	107
D	EXECUTIVE PROCEDURE RULES	109
1	Terms of reference	109

2	Constitution	109
	(a) Generally	
	(b) Confirmatory hearings	
3	Who may make Executive decisions	110
4	A Mayoral Scheme of Delegation	110
5	Sub-delegation of executive functions	111
6	Council scheme of delegation and executive functions	111
7	Executive spokespersons	112
8	Assistants	112
9	Conflicts of interest	113
10	Executive meetings – where and when	113
11	Executive meetings – public or private	113
12	Quorum	114
13	How are decisions to be taken by the Executive?	114
14	Who may attend Executive meetings?	115
15	What business to be conducted at Executive meetings?	115
16	A programme of business	115
17	Publication of decisions	116
18	Consultation	116
19	Who can put items on the agenda for a meeting of the Executive?	116
20	No co-optees or substitutions	117
21	Attendance by Executive at Overview and Scrutiny meetings	117

E	OVERVIEW AND SCRUTINY PROCEDURE RULES	118
	1. Arrangements for overview and scrutiny	118
	2. Constitution and terms of reference	118
	3. Who may sit on overview and scrutiny Committees?	118
	4. Co-optees	118
	5. Education representatives	119
	6. Meetings – where and when	119
	7. Quorum	119
	8. Who chairs overview and scrutiny Committees?	119
	9. Work programme	120
	10. Agenda items	120
	11. Handling referrals to overview & scrutiny Bodies	121
	12. Duty of Executive/Council to respond to overview and scrutiny reports	122
	13. Confidential and exempt information in overview and scrutiny reports and responses	123
	14. Information from reports concerning partner Authorities	123
	15. Policy review and development	124
	16. Rights of overview and scrutiny committee Members to documents	126
	17. Members and officers giving account	126
	18. Call-in	127
	19. Call-in and urgency	129
	20. The party whip	130

21.	Procedure at overview and scrutiny meetings	130
22	Overview & Scrutiny of Crime and Disorder Issues	130
23.	Scrutiny of health matters	133
F	<b>BUDGET &amp; POLICY FRAMEWORK PROCEDURE RULES</b>	135
1	What is the budget and policy framework	135
2	Who decides budget and policy framework	135
3	Process for development of budget and policy framework	135
4	Virement	140
5	Adequacy and application of reserves	140
6	Amending the policy framework	140
7	Decisions contrary to the budget and policy framework	141
8	Call-in of decisions outside the budget or policy framework	141
9	Urgent decisions outside the budget or policy framework	142
G	<b>ACCESS TO INFORMATION PROCEDURE RULES</b>	144
1	Scope	144
2	Additional rights to information	144
3	Right of public to attend meetings	144
4	Notices of meetings	144
5	Access to agenda before meeting	144
6	Supply of copies	145
7	Access to minutes etc. after the meeting	145

8	Background papers	145
9	Summary of public rights	146
10	Exclusion of public from meetings	146
11	Exclusion of access by the public to reports	147
12	Application of access to information rules to executive	147
13	Public meetings of the executive	148
14	Procedure prior to public meetings of the executive	148
15	Reporting at public meetings of the executive	149
16	Procedure prior to private meetings of executive decision making bodies	149
17	Key Decisions	151
18	General exception - urgency	152
19	Special urgency	152
20	Overview & Scrutiny rights in relation to the key decision plan and urgency decisions	153
21	Right to attend and speak at meetings of the executive	153
22	Record of decisions	154
23.	Basis for consideration by executive	154
24	decisions by individual members of the officers	155
25	Executive decisions by individual officers documents	156
26	Access to documents following executive decisions	156
27	Inspection of background papers	157

28	Members' access to documents	157
29	Failure to comply with key decision Requirements	159
30	Limit on rights	159
31	Confidential information, exempt information and the advice of political assistant or advisor	160
32	Officer Decisions	160
H	EMPLOYMENT PROCEDURE RULES	161
1	Declarations	161
2	Canvassing for appointment	161
3	Statement of duties for Chief Officer Posts	161
4	Responsibility for appointment, dismissal and disciplinary action below deputy chief officer	162
5	Meaning of disciplinary action	162
6	Recruitment and dismissal of Head of Paid Service	162
7	Recruitment of Head of Paid Service, chief officers and deputy chief officers	162
8	The Director of Public Health – recruitment and dismissal	163
9	Dismissal of Head of Paid Service, chief officers and deputy chief officers	164
10	Membership of committees with responsibility for appointment/ dismissal of Head of Paid Service, chief officers and deputy chief officers	165
11	Eligibility to sit on appeals committees	165
12	Disciplinary action in relation to the Head of Paid Service, Chief Finance Officer and Monitoring Officer	165

	(1) No disciplinary action without independent report	
	(2) Suspension	
	(3) Rights of designated independent person	
13	Involvement of Members in disciplinary action below deputy chief officer	167
14	Political assistants	167
15	Mayor's assistant	167
I	CONTRACT PROCEDURE RULES	168
1	Introduction	168
2	Interests in contracts	168
3	European Procurement Legislation	168
4	Localism Act 2011	169
5	Public Services (Social Value) Act 2012	169
6	Estimate of Expenses Involved	169
7	Authority to Procure	170
8	Contract Register	170
9	Category Values	170
10	Procurement Routes	171
11	Method of Inviting Tenders	172
12	Two Stage Procurement Process	173
13	Exemption to Contract Procedure Rules	174
14	Submission of Tenders	175
15	Opening and Acceptance of Tenders	176
16	Late Submissions, Errors, Discrepancies and Alterations	177

17	Award of contract	177
18	Scrutiny/Standstill Period	179
19	Requirement for contracts to be in writing	180
20	Variations and Extensions	181
21	Liquidated and Ascertained Damages	182
22	Security and guarantee	182
23	General Rule	182
24	Grant Funded Expenditure	183
25	Maintained Schools where there is no Delegated Budget to the School	183
J COMMITTEE GENERAL RULES		184
1	Political balance	184
2	Proceedings	184
3	Sub-committees	184
4	Chairing committees	184
5	Membership of sub-committees	184
6	Discontinuance of sub committees	184
7	Quorum	184
8	Meetings open to all members of the Council	185
9	Election of Chair and Vice Chair	185
10	Absence of the Chair	185
11	Limitation on chair/Vice Chair and members of Executive	185
12	Limitation on membership of committees	185

	13	Duties of the Chair and Vice Chair of Committees	186
	14	Special meetings	186
	15	Joint meetings	187
	16	Resignations	187
	17	The proper officer	187
K		FINANCIAL REGULATIONS	188
<b>PART V</b>		<b>ETHICS</b>	<b>208</b>
		Standards Committee - Terms of Reference	209
		<b>Member Code of Conduct with protocols</b>	<b>211</b>
		• Appendix 1 - Officer & Member relations	221
		• Appendix 2 - Protocol on Member Use of IT	228
		• Appendix 3 - Protocol on Planning & Lobbying	233
		• Appendix 4 - Local Authority Code on Publicity	242
		• Appendix 5 – Guidance Code for Members on outside bodies	249
		<b>Employee code of conduct</b>	<b>261</b>
		<b>Code of Corporate Governance</b>	<b>270</b>
<b>PART VI</b>		<b>MEMBERS' ALLOWANCE SCHEME</b>	<b>277</b>
<b>PART VII</b>		<b>COUNCIL STRUCTURE CHART</b>	<b>296</b>
<b>PART VIII</b>		<b>SCHEMES OF DELEGATION</b>	<b>298</b>
		Council's Scheme Delegation	299
		Mayoral Scheme Delegation	317
		• Appendix 1 – Contracts, Grants, Property	361
		• Appendix 2 – Works Council Constitution & Functions	362
		Directorate Schemes of Delegation	366
		APPENDIX 1 - Exempt and Confidential Information	427

APPENDIX 2 - Petition Scheme	431
APPENDIX 3 – Protocol for Recording Council Meetings	438

**PART I**  
**SUMMARY**

## **PART I - SUMMARY**

**This document summarises the Constitution of the London Borough of Lewisham under Section 9P 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.

### **2 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 make up one body, the Council of the London Borough of Lewisham. In this Constitution, the expression 'Member' includes the Mayor and councillors.

### **3 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.

### **4 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.

## **5 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.

## **6 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. The Mayor and all Councillors must comply with it. Similar standards are expected of Council staff who must comply with the Council's Employee Code of Conduct.

## **7 ALLOWANCES AND PAY**

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

The Council has also adopted a pay policy in relation to the remuneration of its employees. It reviews this annually and pays in accordance with it.

## **8 COUNCIL'S POLITICAL MANAGEMENT STRUCTURE**

### **i) The Council**

The Council acts as one corporate body. It holds meetings to which all Councillors and 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 Mayor**

The Mayor makes proposals to the Council about its main policies and budget. Once they are agreed he/she is responsible for putting those policies agreed by the Council into effect. Within that framework, the Mayor is responsible for all decisions which are not the responsibility of the Council or any of its committees by law.

### **iii) The Executive**

The Mayor appoints an Executive including him/herself and between 2 and 9 other councillors. The Executive is referred to as the Mayor and Cabinet. The Mayor may delegate executive decision making to the

Executive.

iv) 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. It will also appoint an Education Business Panel to consider call in in relation to education matters. The Council will ensure that among its overview and scrutiny sub-committees, one will scrutinise health provision and another will scrutinise crime and disorder matters in the borough. The Overview and Scrutiny Committee will appoint at least two other select committees annually, and may appoint joint select committees with other authorities from time to time. Any matter which by law is defined as an Overview and Scrutiny function, which is not delegated elsewhere by this Constitution falls within the remit of the Overview and Scrutiny Committee.

v) Committees

The Council has established other committees to deal with, for example, 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.

vi) Health and Wellbeing Board

The Council has established a Health and Wellbeing Board which will produce an analysis and strategy to meet health and social care needs in the Borough.

vii) Standards Committee

The Council's Standards Committee has been set up to promote the highest standards of conduct by the Mayor and all 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.

viii) 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.

ix) Working Parties

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

**9 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.

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.

It The Council's current scheme of delegation appears in the Constitution. 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.

**10 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.

## **11 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.

## **12 ACCESS TO COUNCIL MEETINGS AND DOCUMENTS**

The Council will draw up and regularly update a 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 consider 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 unless they relate to confidential matters.

There are special provisions which apply when urgent matters arise.

## **13 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. Those 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.

## 14 GENERAL RULES OF PROCEDURE

The Council has adopted a set of general rules of procedure. They are incorporated into the Constitution and its appendices. Those documents 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.

## 15 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.

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 and Regeneration) – 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.

Scrutiny Officer (Head of Corporate Policy & Governance) - who is responsible for promoting the role of overview and scrutiny and providing support and guidance to members and officers in relation to the Council's overview and scrutiny functions.

Director of Public Health – who is responsible for producing an annual report on the health of people in the area

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.

Council employees are bound to comply with an Employee Code of Conduct It is attached to the Constitution.

**16 PUBLICATION OF CONSTITUTION**

Copies of the constitution are available for public inspection at the Council's main offices, Catford SE6 4RU. The Mayor and all members of the Council will be given an electronic 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.

**17 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 9P 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**

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 make up one body, the Council of the London Borough of Lewisham. In this Constitution, the term 'members' refers to the Mayor and Councillors.

## **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 is held on the first Thursday in May every four years. 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.

## **2.6 Members' rights and duties**

Members 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 member, and as accord with the law.

Members will 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.

Members, 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.

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

## **2.7 Members' remuneration**

Members, 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.

## **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 Key Decision 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, participate in the Positive Ageing Council 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 Monitoring Officer 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 the Council members or staff, and must not wilfully harm assets, funds or anything owned by the Council, its members, councillors or Council staff.

## **ARTICLE 4 THE COUNCIL**

### **4.1 Full Council**

The Council holds meetings to which all councillors and the Mayor are 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 Plan <sup>1</sup>  
 Sustainable Community Strategy <sup>2</sup>  
 Crime and Disorder Reduction Strategy <sup>3</sup>  
 Youth Justice Plan <sup>4</sup>  
 Local Development Documents <sup>5</sup>  
 Transport Local Implementation Plan <sup>6</sup>  
 Housing Strategy <sup>7</sup>  
 Food Law Enforcement Service Plan <sup>8</sup>  
 Statement of Licensing Policy (alcohol & entertainment)<sup>9</sup>  
 Statement of Licensing Policy (Gambling)<sup>10</sup>

- (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 documents;
- (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 scrutiny committee 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 Mayor;
- (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, 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;
- (w) decisions in relation to a community governance review under Section 79 Local Government and Public Involvement in Health Act 2007 pertaining to the whole or part of the Council's area for the purposes of making one or more recommendations (including but not limited to recommendations as to what changes, if any should be made to electoral arrangements);
- (x) decisions in relation to any request to the Boundary Commission for England to consider single member wards made under S57 Local Democracy Economic Development and Construction Act 2009;
- (y) Any decision as to whether to hold a referendum (whether in relation to neighbourhood planning, Council Tax or otherwise) within the borough
- (z) Approval of the Council's pay policy statement under Section 38 Localism Act 2011;
- (aa) Decisions to refer proposals to make substantial variations or substantial developments to health services within the area in accordance with SI 2013/218
- (bb) such other matters as are reserved to the Council from time to time, whether by the Constitution or by law,

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
7. Section 87 Local Government Act 2003
8. Health and Safety at Work Act 1974 and Guidance from Food Standards Agency
9. Section 5 Licensing Act 2003
10. 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

### **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 Mayor 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 Panels.

### **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 the Mayor and 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 functions in accordance with the Local Government Act 2000 as amended but may not carry out any other functions unless relevant legislation is 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'. 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, members of the Council may refer to the overview and scrutiny committee, or an overview and scrutiny select committee, or Business Panel, relevant matters. This is dealt with in Section E of the Council's procedure rules below.

Any matters which must by law be carried out by an overview and scrutiny committee, but are not delegated to a select committee, shall be the responsibility of the Overview and Scrutiny Committee.

### **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 Panels, 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.

The delegation of functions by the Overview and Scrutiny Committee to its Select Committees does not prevent exercise of those functions by the Overview and Scrutiny Committee.

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 appointed in accordance with Schedule A1 Local Government Act 2000 as amended. 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,
Housing 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"> <li>• The chair and vice chair of the overview and scrutiny committee</li> <li>• the chair of each of the select committees appointed by the overview and scrutiny committee</li> <li>• 2 or the smallest number higher, of Councillors required to ensure the political composition of the Council is reflected</li> </ul> <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"> <li>• 2 x Diocesan Representatives</li> <li>• 3 governor representatives i.e. one each for primary schools, special schools and secondary schools</li> </ul>

#### **6.4 The Local Petition Scheme**

The Council has an approved scheme for handling petitions. The scheme provides for anyone who lives, works or studies in the borough to sign or organise a petition. The petition may be submitted to the Council either on paper or by means of e-petition. The scheme sets out the possible responses which are available to the Council.

#### **6.5 The role of the select committees and the Business Panels**

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 6.6 (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 Panels,

(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.

## **6.6 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
- To consider matters referred to it in accordance with the Council's Petition Scheme

### *(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 where the law does not require them to attend).
- 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 and Positive Ageing Council 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 and Positive Ageing Council 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 and the Positive Ageing Council.

- To keep the Council's local ward assemblies and Positive Ageing Council 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)

(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 an 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.

**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 scrutinise the effectiveness of the Audit Panel.

*Healthier Communities Select Committee*

- (a) To fulfill 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 in relation to health matters given to the Council's Overview and Scrutiny Committee by any legislation but in particular the NHS Act 2006 as amended, the Health and Social Care Act 2012, the Care Act 2014 and regulations made under that legislation, and any other legislation in force from time to time. For the avoidance of doubt, however, decisions to refer matters to the Secretary of State in circumstances where a health body proposes significant development or significant variation of service may only be made by full Council.
- (b) To review and scrutinise the decisions and actions of the Health and Wellbeing Board and to make reports and recommendations to the Council and/or Mayor and Cabinet.

- (c) To review and scrutinise in accordance with regulations made under Section 244 NHS Act 2006 matters relating to the health service in the area and to make reports and recommendations on such matters in accordance with those regulations
- (d) Require the attendance of representatives of relevant 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.
- (e) With the exception of matters pertaining to the Council's duty in relation to special educational needs, to fulfill 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, Children Act 2004, National Assistance Act 1948, Mental Health Act 1983, NHS and Community Care Act 1990, NHS Act 2006, Health and Social Care Act 2012 and any other relevant legislation in place from time to time.
- (f) To fulfill 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).
- (g) To receive referrals from the Healthwatch 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 Healthwatch should be referred to the Children and Young People Select Committee .
- (h) To review and scrutinise the Council's public health functions.
- (i) 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
  - the use of 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
  - other matters relating to Health and Adult Care and Lifelong Learning for those aged 19 years or over

- (j) 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 Children Act 2004, 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, Children Act 2004, Children and Families Act 2014 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) 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 all relevant Education Acts from time to time in force. Without limiting the generality of this, this shall include, in particular, schools and school related services.
- (c) The exercise of the overview and scrutiny powers of the Council in 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.
- (d) 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.
- (e) In so far as they relate to people under the age of 25 years, to make comments and recommendations on the provision of education, training and learning by those with special educational needs.

- (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,
  - 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 Healthwatch 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.

*Safer Stronger Communities Select Committee*

- (a) To fulfill all overview and scrutiny functions in relation to the discharge by responsible authorities of their crime and disorder function as set out in Sections 19 and 20 Police & Justice Act 2006, as amended from time to time, and all other relevant legislation. This shall include the power:
- (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,
- (ii) to make reports or recommendations to the local authority or the executive with respect to the discharge of those functions; and
- (iii) to make reports and/or recommendations to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority. A local crime and disorder matter in relation to a member means a

matter concerning crime and disorder (including, in particular, forms of crime and disorder involving anti social behaviour or other behaviour adversely affecting the environment), or the misuse of drugs, alcohol and other substances, which affect all or part of the electoral area for which the member is elected or any person who lives or works there.

- (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;
- (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;
- (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;
- (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;
- (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;
- (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;
- (i) to establish links with and liaise with external organisations in the borough which are concerned with the promotion of equality of opportunity.
- (j) Overview & Scrutiny functions (excluding call-in) in relation to library provision.

*Sustainable Development Select Committee*

- (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, and urban regeneration;
  - iv. 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;
  - vi generally to examine the performance of the Mayor and Cabinet in relation to these matters.
- the review and scrutiny of the exercise by risk management authorities of flood risk management and coastal erosion risk management affecting the area.

#### *Housing Select Committee*

To fulfill all overview and scrutiny functions in relation to the discharge by the authority of its housing functions. This shall include the power to:-

- (a) review and scrutinise decisions made or other action taken in connection with the discharge of the Council of its housing function
- (b) make reports or recommendations to the authority and/or Mayor and Cabinet with respect to the discharge of these functions

- (c) make recommendations to the authority and/or Mayor and Cabinet proposals for housing policy
- (d) to review initiatives put in place by the Council with a view to achieving the Decent Homes standard, making recommendations and/or report thereon to the Council and/or Mayor and Cabinet
- (e) To establish links with housing providers in the borough which are concerned with the provision of social housing

### **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 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) in accordance with the provisions of paragraph E18, 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 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;
- (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;
- (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;
- (h) to consider any referral properly made by a Councillor/Councillors for consideration by overview and scrutiny which relates to the remit or more than one select committee.
- (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;
- (j) 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.

## **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**

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, Section 123 Local Government and Public Involvement in Health Act 2007 regulations thereunder, amendments thereto and/or other relevant legislation

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

### **6.10 Changes to the overview and scrutiny arrangements**

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(s) 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(s) 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 must by law comply with the provisions of the Local Government and Housing Act 1989. The Council must ensure that the membership of its overview and scrutiny committees and sub committees reflects the political composition of the Council unless the Council agrees unanimously that this is not required – see Procedure Rule J1.

## **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, single ward members, joint committees or other local authorities or their executives 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.

### **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.

#### **7.4 The Mayor**

The Mayor and all councillors make up the Council. The following provisions shall apply to the Mayor.

- (a) The Mayor shall be entitled to attend any meeting of the full Council. He/she will be entitled to speak, participate in the debate and vote at any meeting of the full Council he/she attends in accordance with the provisions of the Constitution. He/she will also answer questions from councillors and the public at such meetings as set out in the Council's procedure rules at Part IV
- (b) The Mayor is subject to the same rules about qualification and disqualification from office as any councillor;
- (c) The Mayor must follow the rules about disclosure of interests and comply with the Member Code of Conduct in place from time to time;
- (d) The Mayor may not be a member of the Standards Committee, an overview and scrutiny committee, select committee, Business Panel or joint overview and scrutiny committee.
- (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.

#### **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. If the office of Deputy Mayor becomes vacant, the Mayor will appoint another person in his/her place.
- (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 notice must also state the identity of the new Deputy Mayor. The change will be effective on the date the Monitoring Officer gives notice to all councillors. The Mayor will report his/her decision to the next meeting of the full Council and at that meeting the Mayor will inform the Council of the identity of the new Deputy Mayor.

## **7.7 The Executive – generally**

- (a) *Composition* – the Mayor may only appoint councillors 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.

- (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 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. The change will be effective on the date the Monitoring Officer gives notice of the change to all Members of the Council. The mayor will report his/her decision to the next meeting of the full Council and at that meeting the Mayor must inform the Council of the identity of any 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"> <li>• 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</li> <li>• Issuing enforcement notices, stop notices and listed building enforcement notices</li> <li>• Taking action in relation to unauthorised advertisements</li> <li>• Issuing notices in relation to untidy land</li> <li>• Issuing notices and orders in relation to building control</li> <li>• The exercise of the Council's powers in relation to listed</li> </ul>

		<p>buildings</p> <ul style="list-style-type: none"> <li>• Commenting on draft planning briefs and plans to the development of land prepared by the Executive</li> <li>• Entering into agreements to regulate the development or use of land</li> <li>• Carrying out any other regulatory enforcement functions contained with town and country planning or building control legislation in force from time to time</li> <li>• Creating, diverting and stopping up highways, footpaths and bridleways</li> <li>• Removal of nuisance deposits on the highway</li> <li>• 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</li> <li>• 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</li> </ul>
Strategic Planning Committee	10 members of the Council who shall be the chairs of each of the other planning committees, five other members and two members of the Executive	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

		<p>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"> <li>• where the decision relates to a development/matter of strategic importance which will have a significant impact on the borough, or</li> <li>• where legal proceedings in relation to the matter are in existence or in contemplation, or</li> <li>▪ where three or more members of the planning committees A, B and C are disqualified in some way from participating in the decision</li> <li>▪ consideration of all matters relating to neighbourhood planning under the Localism Act 2011 save those specifically reserved to Council, including advising Council on whether any referendum is appropriate under the Act</li> <li>▪ To consider any matter that relates to neighbourhood planning under the Localism Act to the extent it is a non-executive function and not reserved to Council.</li> </ul>
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	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

	Sub-Committee or Urgency Sub Committee	<p>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 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, summary reviews (including expedited reviews held remotely), and objections as consultee, and as Responsible Authority, save for such matters as are reserved to the main Licensing Committee and any matters which the Head of Crime Reduction &amp; Supporting People 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 relate to premises licences, provisional statements, permits and temporary use notices and objections as consultee, save for such matters as are reserved to the main Licensing Committee and any matters which the Head of Crime Reduction &amp; Supporting People 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> <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 licensing and registration functions (including the setting of fees as appropriate) to the extent they are not the responsibility of the Licensing Committee from time to time.
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"> <li>• review with fund managers of the investment performance of the superannuation fund on a</li> </ul>

		<p>quarterly basis</p> <ul style="list-style-type: none"> <li>• to examine the portfolio of investments, and its market value, at the end of each quarter for suitability and diversification</li> <li>• 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 implementing the policy</li> <li>• to review from time to time the appointment of the fund manager</li> <li>• to determine the overall investment strategy and policies of the fund on professional advice</li> <li>• 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.</li> </ul>
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	To exercise certain powers in relation to the holding of elections and the maintenance of the electoral register comprising:

	Executive	<ul style="list-style-type: none"> <li>• the appointment of an electoral registration officer</li> <li>• the assignment of officers in relation to requisitions of the registration officer</li> <li>• the appointment of a returning officer for local government elections</li> <li>• the provision of assistance at European Parliamentary elections</li> <li>• the division of constituencies into polling districts</li> <li>• the division of electoral divisions into polling districts at local elections</li> <li>• 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</li> <li>• power to make submissions to the Boundary Commission for England in relation to the boundaries of the borough or ward boundaries</li> <li>• 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)</li> <li>• to conduct reviews of the conduct of elections in the borough</li> </ul>
Appointments Committee	The Chair of Overview & Scrutiny, 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"> <li>• 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.</li> <li>• 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</li> </ul>

	<p>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.</p>	<p>decision for the full Council.</p> <ul style="list-style-type: none"> <li>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 the Mayor</li> </ul> <p>NB though he/she may not be a member of nor vote at any meeting of the Appointments Committee, the Mayor shall be invited to attend all meetings of the Appointments Committee and shall be entitled to contribute to discussion in that forum, should he do so.</p>
Standards Committee	10 councillors, not more than one of whom may be a member of the executive and 6 co-optees	The terms of reference appear at Appendix 5

**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

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

**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

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"> <li>• The review and approval of the Council's Internal Audit's strategy, plans and resources.</li> <li>• Internal Audit progress reports on a quarterly basis summarizing the audit reports issued and performance of the Internal Audit function.</li> <li>• The annual report of the Council's Head of Internal Audit and Inspection Agencies</li> <li>• 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.</li> <li>• The external auditor's Annual Plan, relevant reports, and reports to those charged with governance.</li> <li>• External inspection reports and specific reports as agreed with the external</li> </ul>

		<p>auditor</p> <ul style="list-style-type: none"> <li>• The monitoring of the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.</li> <li>• An overview of the Council's Constitution in respect of audit procedure rules, contract procedure rules, and financial regulations.</li> <li>• The Council's assurance arrangements including the Statement of Internal Control.</li> <li>• 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.</li> <li>• The external auditor's opinion and reports to members, and monitoring of management action in response to issues raised by external audit.</li> </ul>

9.4 The Council will also appoint a Health and Wellbeing Board. The membership and terms of reference of the Health and Wellbeing Board are set out below.

<b>Body</b>	<b>Composition</b>	<b>Terms of Reference</b>
Health and Wellbeing Board	<p>The Mayor and such councillors as he may appoint;</p> <p>The Council's Executive Director for Community Services; The Council's Executive Director for Children &amp; Young People;</p> <p>The Council's Director of Public Health; 1 representative of the Local Healthwatch Organisation for the area; 1 representative of the Lewisham Clinical Commissioning Group; such other persons or representatives of such other persons as the Council thinks appropriate. This will normally include 2 representatives of the voluntary sector.</p> <p>NB: Paid officials of the Council, Clinical Commissioning Group or Healthwatch, if appointed as members, are not to be allowed to vote. If those groups appoint representatives who are either the</p>	<p>To carry out statutory functions of the Health and Wellbeing Board under the Health and Social Care Act 2012, as amended from time to time, regulations thereunder and all other relevant statutory provision. Activities of the Health and Wellbeing Board include, but may not be limited to, the following:-</p> <ul style="list-style-type: none"> <li>• To encourage persons who arrange for the provision of any health or social services in the area to work in an integrated manner, for the purpose of advancing the health and wellbeing of the area</li> <li>• To provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under Section 75 NHS Act 2006 in connection with the provision of such services</li> <li>• To encourage persons who arrange for the provision of health related services in its area to work closely with the Health and Wellbeing Board</li> <li>• To prepare joint strategic needs assessments (as set out in Section 116 Local Government Public Involvement in Health Act 2007), in respect of which the Council and each partner clinical commissioning group will prepare a strategy for meeting the needs included</li> </ul>

	<p>Chair or a member of their managing committee or equivalent body, they may vote, provided they are not also an employee of that organisation.</p> <p>The NHS Commissioning Board must appoint a representative for the purpose of participating in the preparation of Joint Strategic Needs Assessments and the development of joint Health &amp; Wellbeing Strategies, and to join the Health &amp; Wellbeing Board when it is considering a matter relating to the exercise, or proposed exercise of the NHS Commissioning Board's commissioning functions in relation to the area if it is requested to do so by the Board.</p>	<p>in the assessment by the exercise of the functions of the Council, the NHS Commissioning Board or the clinical commissioning groups</p> <ul style="list-style-type: none"> <li>• To give its opinion to the Council on whether the Council is discharging its duty to have regard to any joint strategic needs assessment and any joint health and wellbeing strategy prepared in the exercise of its functions</li> <li>• To exercise any Council function which the Council delegates to the Health and Wellbeing Board, save that it may not exercise the Council's functions under Section 244 NHS Act 2006 (statutory consultee in relation to substantial variations in service etc)</li> </ul>
--	---	--

Special procedural provisions apply to Health and Wellbeing Boards and these are dealt with at Council Procedure Rules.

### **9.5 General provisions applying to committees**

General rules apply to committees as contained in Part J – Committee General Rules attached to this Constitution. Those rules shall also

apply to the meetings of the Constitution Working Party. Regulations exempting the Health and Wellbeing Board from some of these provisions are in place and these are reflected in this Constitution.

## **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. The Mayor and every Council member must comply with it and any Member Code of Conduct in place from time to time.

### **11.2 Employee Code of Conduct**

Similar standards are expected of Council staff. The Council requires behaviour of the highest calibre and employees are required to adhere to an Employee Code of Conduct which appears at Part V - Ethics.

### **11.3 A Standards Committee**

The Council has and will maintain a Standards Committee consisting of 10 councillors and 6 independent co-opted members,. Not more than one member of the Executive may sit on the Council’s Standards Committee. All elected members of the committee are entitled to vote, but co-opted members are not so entitled. 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.

## **ARTICLE 12 LOCAL ASSEMBLIES & POSITIVE AGEING COUNCIL**

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 on the 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

This Council has also established the Positive Ageing Council which gives residents over 60 years of age a forum in the Council structure for discussing issues relating to later life. Though it is not a decision making body, the Positive Ageing Council is an important mechanism and provides a conduit to the Council and other public service providers through which older people can identify and prioritise issues.

The Rules of Procedure at Part IV demonstrate how the views of the Positive Ageing Council will be brought to the attention of Council and the Executive.

## **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 to exercise functions which are non-executive functions.
- (b) The Council may arrange for the discharge of non-executive functions by another authority or the executive of another authority.
- (c) The Mayor may establish joint arrangements with one or more authorities or their executives to exercise executive functions.
- (d) The Mayor may arrange for the discharge of executive functions by another authority or the executive of another authority.
- (e) All joint arrangements or decisions relating to the exercise of functions by one authority on behalf of another will be taken in accordance with the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 or other relevant legislation in force from time to time.

### **13.3 Access to information**

The access to information rules in Part IV of this Constitution apply to joint arrangements and reflect changes anticipated to be effective if and when the draft Openness of Local Government Bodies Regulations 2014 are in force (expected 31 July 2014).

### **13.4 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 approve contracting arrangements where the contractor acts as the Council's agent under usual contacting

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

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service Section 4 Local Government and Housing Act 1989
Head of Law	Monitoring Officer Section 5 Local Government and Housing Act 1989
Executive Director for Resources and Regeneration	Chief Finance Officer Section 114 Local Government Finance Act 1988
Executive Director for Children and Young People	Director of Children's Services Section 18 Children Act 2004
Executive Director for Community Services	Director of Adult Social Services Section 6 Local Authorities Social Services Act 1970 as amended
Head of Corporate Policy & Governance	Scrutiny Officer 9FB Local Government Act 2000.
Director of Public Health	Director of Public Health Section 30 Health & Social Care Act 2012

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) *Political restriction* – The Head of Paid Service will consider any applications for exemption from political restriction and make decisions as to whether to grant such exemptions

#### **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 complaints of breach of the Member Code of Conduct as appropriate and where appropriate refer any reports or recommendations for action in respect of the complaint to the independent person appointed by the Council and the Standards Committee
- (e) *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.

- (f) *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
- (g) *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 members.
- (h) *Restrictions on functions* -The Monitoring Officer may not also be 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 members 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 S75 NHS Act 2006 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 Duties of the Director of Public Health**

The Director of Public Health has responsibility for implementation of the health improvement and public health duties conferred by the Health and Social Care Act 2012 including the production of an annual report.

#### **14.11 Duties of Scrutiny Officer**

The Scrutiny Officer is responsible for all of the functions in Section 9FB Local Government Act 2000. This includes:-

- promoting the role of the Council's overview and scrutiny committee(s)
- providing support to the overview and scrutiny committee(s) and their members

- providing support and guidance to members of the Council, Mayor and Cabinet and Council officers in relation to the functions of the Council's overview and scrutiny committee(s).

The Scrutiny Officer may not be the Head of Paid Service, Monitoring Officer or Chief Finance Officer.

#### **14.12 Conduct**

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

#### **14.13 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 and 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.

#### **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 it becomes 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 notice of the amendment has been given to all members of the Council. Any such amendments will be incorporated into the Mayoral scheme of delegation and reported to full council.

### **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.

### **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. OFSTED) 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 government 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. European Funding)
- (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 on 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.

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  
APPEALS AND REPRESENTATION PANELS**

The Council will establish appeals and representations panels to deal with complaints and other matters as the law requires. Currently the Council has established the panels in column 1 of the table below which deal with the matters set out in column 2 of that table. This may change from time to time.

Column 1	Column 2
Independent Review Panel	To review decisions in relation to permanent school exclusions
Admission Appeal Panel	To deal with appeals against refusal of school admission
TO BE ADDED BY SCH	

**ARTICLE 19  
REVIEW OF THE CONSTITUTION**

**19.1 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.

**19.2 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 governance* – If the Council is considering a move away from a directly elected Mayor and cabinet model of executive arrangements, either to a leader and cabinet executive model, or to a model of governance based on one or more committees, it will take reasonable steps to consult with local stakeholders and electors when drawing up proposals and will hold a binding referendum. Any change will not take place until the end of the Mayor’s term of office.

**ARTICLE 20**  
**PUBLICATION, INTERPRETATION AND SUSPENSION**

**20.1 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 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 on the council's website, and that they can be purchased in hard copy 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.

**20.2 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.

**20.3 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:

<b>Function</b>	<b>Executive/non executive function</b>
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 by governing bodies pursuant to Section 95(2) 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 Act 1990	executive function
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
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>It will be the responsibility of the Executive to make the following appointments:-</p> <p>Local Government Association;</p> <p>London Councils and all its subsidiary bodies;</p> <p>all bodies established to give effect to the BSF programme in Lewisham, including but not limited to Lewisham Local Education Partnership and any joint venture company established with Costains under the BSF programme;</p> <p>Lewisham Homes;</p> <p>Thames Gateway London Partnership;</p> <p>Lewisham Local Strategic Partnership;</p> <p>South East London Waste Disposal Group (SELWDG),</p> <p>Downham Community Partnership,</p> <p>Greater London Enterprise Limited,</p> <p>Lewisham Health Partnership,</p> <p>South East London Combined Heat and Power (SELCHP);</p> <p>Catford Regeneration Partnership; and</p> <p>any other bodies, which in the opinion of the Monitoring Officer, are of a</p>

	<p>similar nature</p> <p>The making of all other appointments will be a non-executive responsibility</p>
<p>The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities</p>	<p>executive function</p>

## **Part IV**

# **RULES OF PROCEDURE AND STANDING ORDERS**

<b>A</b>	-	<b>Purpose</b>
<b>B</b>	-	<b>Councillors</b>
<b>C</b>	-	<b>Council Procedure Rules</b>
<b>D</b>	-	<b>Executive Procedure Rules</b>
<b>E</b>	-	<b>Overview and Scrutiny Procedure Rules</b>
<b>F</b>	-	<b>Budget &amp; Policy Framework Procedure Rules</b>
<b>G</b>	-	<b>Access to Information Procedure Rules</b>
<b>H</b>	-	<b>Employment Procedure Rules</b>
<b>I</b>	-	<b>Contract Procedure Rules</b>
<b>J</b>	-	<b>Committee General Rules</b>
<b>K</b>	-	<b>Financial Regulations</b>

## **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. The Mayor, councillors 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.

### **2 Entitled to speak and vote**

All members 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 6 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/Mayor of the Council; or
2. becomes disqualified from being a member of the Council other than under the Audit Commission Act 1998, or Section 79 Local Government Act 2000, or Section 34 Localism Act 2011, or by a conviction or a breach of any of the provisions of Part II of the Representation of the People Act 1983; or
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.

## **9 Filling of casual vacancy**

Unless the vacancy arises within six months of the date when the member 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 borough (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 date of any declaration by the High Court declares that the office is vacant.

## **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.

## **11. Declaration of acceptance of office**

Within two months of election, all members are required to declare their acceptance of office. Failure to do so will mean that the elected member ceases to be a member of the Council and a casual vacancy will arise.

## **12 Declaration of interests.**

Within 28 days of becoming a member, members must make a declaration of 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 agree to abide by the Council's Member Code of Conduct. 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.

Failure to register disclosable pecuniary interests may lead to prosecution. Failure to disclose other interests in the register as required by the Member Code of Conduct is likely to be a breach of the Code and lead to action by the Council's Standards Committee.

All members are also required to declare interests in relation to particular Council decisions in accordance with the contents of the Member Code of Conduct appearing at Part V. Participation in consideration of a matter where a Member has a disclosable pecuniary interest may lead to prosecution, and in respect of other interests to action by the Council's Standards Committee.

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. 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
- 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

- 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
- To make appointments to outside bodies, where those appointments are not reserved to the Executive, in accordance with political balance requirements if applicable.
- To fix a programme of Council meetings for the municipal year
- To consider any business specified in the notice convening the meeting.

**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 three times a year. They will take place in locations determined by the proper officer and notified in the summons to the meeting.

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

- 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
- 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 on the Council's website and its main office.

**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
- 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 an extraordinary 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). Details of the meeting will be published on the Council's website and at its main office. 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.

## **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, between meetings of the Council, with matters 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 Deputy Mayor, one member of the Executive other than the Mayor, the Chair of the Overview and Scrutiny Committee and 2, or the smallest number higher, of councillors required to ensure that 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 or such person as may he may nominate in writing 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.
- 8.3** If both the Chair and the Vice Chair of Council are absent from a meeting of the Council, 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 interpretation 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 be invited to attend all meetings of full Council and to address Council on any matter before it for consideration. Where the Mayor does wish to address full Council, if he so requests, he shall do so first, after the proposer and seconder in whose names a motion or amendment is brought but before any other councillor
- 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, should they wish.

## **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.
- 10.5** 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. .
- 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 – Written notice of questions must be received by the proper officer by midnight on the fifteenth day before the meeting. Each question must state the name and address of the sender. 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 relevant Business Panel and the Chair of any relevant committee. Written responses to questions will be sent to the sender by 5 p.m. on the working day prior to the meeting.

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; or
- It is substantially the same as a question which has been put and answered at a Council meeting within the last three months; or
- It requires the disclosure of confidential or exempt information; or
- That responding to the question would entail disproportionate labour or cost; or

- That the question relates to the circumstances of an individual case; or
  - It relates to any investigation by the Monitoring Officer or Standards Committee.
  - 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 the Mayor and all councillors 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** At the meeting – The Chair of Council will announce that public questions are to be taken. He or she will state the name and address of the questioner and the name of the Mayor or the Councillor who has supplied a written answer.
- 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.

Members of the public asking more than one question must number the questions they submit in order of preference (1<sup>st</sup> question, 2<sup>nd</sup> question, 3<sup>rd</sup> question etc).

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

All 1<sup>st</sup> preference questions in the order in which they were received by the proper officer, then

All 2<sup>nd</sup> preference questions in the order in which they were received by the proper officer, then

All 3<sup>rd</sup> 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.

- 13.9** Absence of the questioner – If the questioner is not present or represented at the meeting, the Mayor/Member to whom the question was addressed will not be required to speak in response to the question, provided a written response has been given.
- 13.10** Time limit on questions – The total time for answering public 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.
- 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 relevant 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 text 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 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 the members.
- 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 (1<sup>st</sup> question, 2<sup>nd</sup> question, 3<sup>rd</sup> 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 1<sup>st</sup> preference questions in the order in which they were received by the proper officer, then

All 2<sup>nd</sup> preference questions in the order in which they were received by the proper officer, then

All 3<sup>rd</sup> 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 or about the business of external organisations may be asked at ordinary meetings of the Council by any member for reply by any member who is a Council nominee 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 such 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 by the member or members of the Council proposing the motion. 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. The motion shall be dated on receipt, numbered in the order in which they are 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 proceed to next business;
- ix that the question be now put;
- x to adjourn a debate;
- xi to adjourn a meeting;
- xii that the meeting continue beyond two and a half hours in duration;
- xiii to suspend a particular procedural rule;
- xiv to exclude the public and press in accordance with the Access to Information Rules;
- xvi to not hear further a member named under Rule C29 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.

- 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 of 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 working 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** Seconder'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 Chair.
- 16.6** When a member may speak again – A member who has spoken may not speak again whilst the same item is still under discussion except:-
- To speak once an amendment has been moved by another member
  - 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
- 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; or
  - To refer the issue to an appropriate body or individual for consideration
- 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 one 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. If several proposed amendments are received before the deadline for submission, they will be considered at the meeting in the order in which they were received. However, if an amendment is carried, no subsequent amendments may be moved. The provisions contained in para 16.8 shall also apply to amendments
- 16.10** If amendment is lost – If an amendment is lost, any further amendments received before the deadline for submission may be moved on the original motion in the order in which they were received.

- 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.
- 16.12** One member – one amendment – No Member shall move more than one amendment to any motion.
- 16.13** Accepting amendments – If there is only one amendment proposed to a motion, the proposer and seconder of the original motion may agree to accept the proposed amendment and the amended motion shall become the substantive motion, without prejudice to the rights of the member proposing the original 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 C29 that a Member leave the meeting;
- (e) a motion under Section 100A of the Local Government Act 1972 as amended 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.

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

### **19.3 Procedure on closure motion - 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;
- (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 or approval of the Member Code of Conduct).

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 or not he/she voted in the first instance.

**22.2** When is a two-thirds majority needed? If 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 spelled out in this Part IV at Section F.

**22.3** Voting method - Voting at Council meetings will be by a show of hands, or by the use of the electronic voting system if available, or if necessary by a ballot 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 22.5 below 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 councillor 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 decisions
- 22.8** Voting on budget matters – When the Council makes a budget decision (whether original or substitute) the names of those who voted for and against the decision and those who abstained from voting shall be recorded in the minutes.

For the purposes of this rule, a budget decision is as defined in regulations requiring the recorded vote (SI 2014/165) and includes the following:-

- Calculation of the Council Tax requirement (Section 31A\* )
- Calculation of the basic amount of Council Tax (Section 31B)
- Additional calculations for special amounts relating only to part of the area (Section 34 and 35)
- Calculation of Tax for different valuation bands (Section 36)
- Substitute calculations (Section 36A)
- The calculation of substitute amounts of Council Tax to apply in the event of a referendum not approving A council Tax increase in excess of limits set by the Secretary of State (Section 52ZF)

\*All of the references to sections in the list above relate to sections of the Local Government Finance Act 1992.

For the purposes of this rule, a budget decision includes a vote on any decision related to the making of the calculation. When the Council sets the Council Tax base and agrees the National Non Domestic Rate for the area, a recorded vote will take place.

- 22.9** 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 who will then be duly appointed. Where the council is appointing to more than one position (eg where the council appoints two representatives to an outside body), and there are more nominees than positions to be filled, this procedure will be used to appoint representatives one at a time. Once the first representative has been appointed, the same procedure will be used again to appoint the second and any further representatives until all appointments have been made.

## **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 C4(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 the Mayor and every member of the Council.

**24.2** If the Mayor or any 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.

**24.4** Additional rules relate to notice of private meetings of the Executive, a Committee of the Executive, joint committees and their sub committees where all members are executive members. These are set out at Part G.

**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 the Mayor/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 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 all members at meetings of the Council. The attendance book will be available in the meeting room for the duration of the meeting. Every member of the Council who attends a meeting of the Council shall sign his/her name in it when they attend.

## **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 27.4 below and to the Protocol appearing at Appendix 3 to this Constitution. The provisions of the Openness of Local Government Bodies Regulations 2014 shall apply. They are expected to confer rights on members of the public to record executive and non-executive meetings which are open to the public. Anyone attending a Council meeting which is open to the public may only record proceedings in accordance with that Protocol.
- 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, mobile phone 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 in accordance with the protocol at Appendix 3
- 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 all members 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 the meeting 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** If because of the nature of disturbance, the Chair is of the view that it is not possible to continue with the business of the meeting in public, the meeting may nevertheless continue in private, provided that on resumption of the meeting in private, the Chair puts a proposal to the meeting that it continue in private because of the disturbance, that proposal is seconded and the Council passes a resolution to that effect before conducting any further business.

**29.4** 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.

**29.5** If the member continues his/her misconduct after such a motion has been carried, the Chair may move that the person concerned 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.

### **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, 10, 23, 24, 25, 26, 27, 28 and 29 of these Council Procedure Rules will apply to meetings of the Executive unless the law or this Constitution expressly provides to the contrary. Rule 22 will apply to meetings of the Executive where the Mayor has delegated decision making to the Executive acting together, or a committee of the Executive.

### **32 The Health & Wellbeing Board (HWB)**

**32.1** The Terms of Reference and composition of the HWB are set out at Article 9.4. The Health and Social Care Act 2012 and regulations made under it provide that the HWB is a committee of the Council and so it is subject to all of the provisions applying to all committees of the Council, save to the extent that the law disapplies these provisions.

**32.2** The following particular provisions apply to the Council's Health & Wellbeing Board.

(a) Its membership does not have to reflect the political composition of the Council.

(b) Following consultation with the HWB the Council has resolved:

- (1) that where its officers are appointed to the HWB, they will not be entitled to vote.
- (2) That where an organisation (Clinical Commissioning Group, Healthwatch, or otherwise) appoint an employee to the HWB that employee will not be allowed to vote.

This rule will not apply to representatives of the voluntary sector appointed by the Council.

- (c) People who are disqualified from membership of the Council are not disqualified from membership of the HWB, unless they are disqualified by virtue of a bankruptcy restrictions order or criminal conviction.
- (d) The HWB may appoint sub-committees to carry out its statutory functions or delegate those functions to an officer. Where the Council delegates other non-statutory functions to the HWB, the HWB may delegate those functions to a sub-committee or officer of the Council. A sub-committee may further delegate to an officer unless the Council directs to the contrary.
- (e) Quorum - The quorum for meetings of the HWB shall be as follows:-

3 voting members of the HWB, at least one of whom must be a member of the Council and one must be a representative of the Clinical Commissioning Group.
- (f) Decisions – shall be taken at the HWB by a majority of those present, entitled to vote and voting.
- (g) Chair and Vice Chair – The Chair of the HWB shall be the Mayor; The Vice-Chair of the HWB shall be elected at the first meeting of the HWB in each year.
- (h) Other provisions relating to the conduct of business at Council Committees shall apply to the business of the HWB to the extent that they do not contradict the provisions of this section.
- (i) Provisions relating to notice of meetings, minutes, agendas, record of attendance, admission of the press and public, adjournments, disturbance, vacancies as well as the general rules of debate set out in this Constitution will apply.
- (j) In addition the Council's Member Code of Conduct in force from time to time will apply to all members of the HWB, who will comply with that Code and all the requirements in relation to it set out in this Constitution.

## **D EXECUTIVE PROCEDURE RULES**

### **1 Terms of reference**

The Mayor will have responsibility for all executive decisions, namely those decisions not reserved to Council or delegated by 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 portfolio 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 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
- An officer
- An area committee
- A joint committee
- An individual ward member, to the extent the function is exercisable within the ward
- Another local authority or its executive in accordance with relevant regulations

The law provides that executive functions may not be discharged by the Council.

### **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:-

- (i) The names, addresses and wards of the people appointed to the Executive by the Mayor.
- (ii) 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
- (iii) 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
- (iv) 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

- (v) 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
- (vi) 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
- (vii) 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

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

## **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.
- (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.

## **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

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, including the Mayor, are subject to the same rules relating to ethical matters as all members of the authority. They are bound to comply with the Member 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 Member Code of Conduct requires that they do so.

If a decision falls to be made by the Mayor alone or an individual member of the Executive and that person has a declarable interest under the Member Code of Conduct, then he/she may not take the decision, or consider the matter further on an individual basis. The matter must be delegated elsewhere. 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.

## **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 key decision 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 Part G - Access to Information Rules.

## **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 neither the Mayor nor Deputy Mayor is 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 the Mayor or any other member(s) make any executive decision, they will do so on the basis of written reports which contain service, legal and financial implications as well as a consideration of options where necessary. 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 G22 (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, the Mayor or another 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 local assemblies and from Positive Ageing Council.
- (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 at Section G.

#### **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

**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 Council's main offices 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 E Rule 18) will only begin to run when notice of a decision has been published at the Council's main offices in accordance with this rule.

**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 is considered appropriate to the matter under consideration.

**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
- (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 referral made under part E10 or E22 of these rules. 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 will 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.
- (g) The Positive Ageing Council may make referrals to the Mayor and Cabinet provided that the referral has been approved by a general meeting of the Positive Ageing Council.

## **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 17. (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.

### **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.

### **4. Co-optees**

Save for the Safer & Stronger Communities Select Committee, the Council's arrangements for overview and scrutiny do not currently provide that co-optees may be appointed to its overview and scrutiny committee, its select committees or Business Panel. Subject to legislation to the contrary, co-optees on any overview and scrutiny committee or sub-committee or Business Panel, may not vote, unless the Council approves a scheme permitting co-optees to vote in accordance with paragraphs 11 and 12 of Schedule A1 Local Government Act 2000 as amended or other relevant legislation in force from time to time.

Diocesan and governor representatives are appointed to the Education Business Panel and the Children & Young People Select Committee. By law they have voting rights.

Voting co-optees (where appointed in accordance with a scheme) and the education and parent representatives on Education Business Panel and the Children and Young People Select Committee may not chair those bodies.

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.

## **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 by request in writing to the proper officer
- (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 Council.

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.

Neither the Chair of Council nor the Vice Chair of Council, education and parent/representatives nor any co-optee 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.
- (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.

## 10. Agenda items

### (a) Members of the Committee/Sub-Committee/Business Panel

Each member of the overview and scrutiny committee, select committees and Business Panels is entitled to refer a matter relevant to the work of that committee/sub-committee or Business Panel to be placed on the agenda for, and discussed at, a meeting of the overview and scrutiny committee/select committee/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.

### b) Members who are not members of the Overview and Scrutiny Committee/Sub-Committee/Business Panel

Any member may refer to an overview and scrutiny committee or sub-committee/Business Panel of which they are not a member, any matter relevant to its work, provided it is not an excluded

matter. In deciding whether to do so, the member must first have regard to any guidance issued by the Secretary of State.

For the purpose of this paragraph, excluded matters are those:-

- (i) relating to Planning decisions;
- (ii) relating to Licensing decisions;
- (iii) relating to a matter in respect of which the person has a right of recourse to review or a right of appeal under any enactment;
- (iv) which are vexatious, discriminatory or not reasonable to be included on the agenda, or discussed at, a meeting of the overview and scrutiny committee/sub-committee/Business Panel.
- (v) A local crime and disorder matter (which is subject to separate provisions see paragraph 22 below).

However where the matter consists of an allegation that a Council function has not been discharged at all, or that the Council has failed/is failing on a systemic basis, it is not an excluded matter notwithstanding that it relates to a Planning or Licensing decision, or a decision where there is a right of recourse to review or a right of appeal under any enactment.

(c) The Council and/or the Executive

The Council and/or the Executive may request that an overview and scrutiny committee/select committee or Business Panel investigate and/or review and/or 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 2 months of receiving it.

**11. Handling referrals to overview and scrutiny bodies**

- (a) In deciding whether to exercise its powers in relation to a referral under paragraph 10(b) above, the overview and scrutiny committee/select committee/Business Panel may have regard to any powers exercisable by the member under Section 236 Local Government and Public Involvement in Health Act 2007 (exercise of functions by councillors) and any representations by the member as to why it is appropriate for the committee/sub-committee/Business Panel to exercise its powers.

- (b) If the committee/sub-committee/Business Panel decides not to exercise its power in relation to the matter, it must notify the member of its decision and the reasons for it.
- (c) Subject to the provisions relating to confidential and exempt information in place from time to time, the committee/sub-committee/Business Panel must give the referring member a copy of any report/recommendations it provides to the Council/Executive.

## **12. Duty of Executive/Council to respond to overview and scrutiny reports**

- (a) When the overview and scrutiny committee or a select committee or Business Panel makes a report and/or recommendations to the Council or to the Executive (other than one under Section 19 Police and Justice Act 2006), the overview and scrutiny committee/select committee/Business Panel 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/business panel indicating what (if any) action it intends to take
  - 3) if the overview and scrutiny committee/sub committee/business panel has published its report/recommendations to publish its response, and
  - 4) if the overview and scrutiny committee/sub committee/business panel provided a copy of its report/recommendations to a member referring a matter to it, to provide a copy of the response to that member.
- (b) It shall be the duty of the Executive or Council served with a notice to respond to comply with the notice within 2 months of receipt of the report/recommendations or if later, the notice.
- (c) Requirements in relation to publication in this paragraph are subject to the provisions relating to confidential/exempt information in place from time to time .
- (d) 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.

### **13. Confidential and exempt information in overview and scrutiny reports and responses**

This paragraph applies to

(1) the publication of any document which is:-

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

(2) the provision of any such document to

- a member who referred the matter to the overview and scrutiny committee/select committee/Business Panel,; or
- the provision of such a document to a partner authority.

The overview and scrutiny committee/select committee/business panel or Council/Executive in publishing the document or providing it to a partner authority must exclude confidential information and may exclude exempt information.

If information is excluded on the grounds that it is confidential or exempt, the overview and scrutiny committee/select committee/business panel/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 as a consequence of excluding the information the published document would be misleading or not reasonably comprehensible.

For the purpose of this paragraph 13, exempt and confidential information have the meaning set out in Section 100A and 100I Local Government Act 1972 as amended.

### **14. Information from and reports concerning partner authorities**

14.1 The overview and scrutiny committee, select committees and the Business Panel may request in writing such information of relevant partner authorities as is reasonably required to discharge their functions in relation to the area and its inhabitants. Subject to certain exceptions set out by law from time to time, the relevant partner authority must respond.

14.2 The overview and scrutiny committee, its select committees and/or Business Panel may make a report/recommendations to the

Council/Executive about the functions of a relevant partner authority exercisable in the area or in relation to its inhabitants.

- 14.3 Where it does so, the overview and scrutiny committee/select committee/Business Panel may give written notice to the partner authority requiring it to have regard to the report/recommendations in exercising its functions. Such notice must be accompanied by a copy of the report/recommendations and it will be the duty of the partner authority to comply with the notice.
- 14.4 'Relevant partner authority' means any person which is a partner authority for the purposes of Chapter 1 Part 5 Local Government and Public Involvement in Health Act 2007 other than a chief officer of police. This includes, but is not limited to, a fire and rescue authority, a joint waste authority, a waste disposal authority, Transport for London, the Arts Council, English Sports Council, the Environment Agency and the Health and Safety Executive.
- 14.5 Paragraph 14.2 does not apply to a health body (ie NHS Trust, NHS foundation trust or a primary care trust) if the report has been given to that body under provisions relating to the scrutiny of health (see paragraph E23 below).
- 14.6 This paragraph does not apply to a report/recommendations about a crime and disorder matter under Section 19 Police and Justice Act 2006 about which there are separate provisions applying to overview and scrutiny (see E 22 below).

## **15. Policy review and development**

- (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 the 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 key decision 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 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.
- (h) 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**

- (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 part G.
- (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) In addition, those officers listed in the Council's Petition Scheme (appearing at Appendix 2 to the Constitution) may also be required to attend before a relevant overview and scrutiny committee, sub-committee or Business Panel in accordance with that scheme.
- (c) 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.
- (d) Where exceptionally the member or officer is unable to attend as required, an alternative date will be arranged.
- (e) 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 made at a meeting of the Executive; and
- (b) Executive decisions made by an individual member:

will be deemed to have been made only when made in the presence of either the Head of Paid Service, Chief Finance Officer, Monitoring Officer or their duly authorised nominees, and in either case, unless the decision is a matter of urgency to which Rule 19 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 19, until it has been published.

- (a) When a decision referred to in paragraph 18(a) above 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

the decision will be published by the proper officer on the Council's website, including where possible by electronic means, and will in any event be available at the Council's main offices, 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.

- (b) 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 within that period resolves to ask the decision maker to re-consider (call in). However if the decision has been taken in accordance with Rule 19 below, it will be effective on publication of the notice.
- (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 Council's main offices. 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 brought to the attention of the Council or the decision maker when they consider the matter.
- (i) 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.

- (j) If the matter is referred to Council, then:-
- 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.
  - 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
  - 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 or may not amend the original decision in the light of Council comments before making a final decision.
- (k) 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**

- (a) The call in procedure set out in Rule 18 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.
- (b) 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.

## **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 Panels will consider, immediately after the declarations of interest, any matters referred to it for call in.

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

- 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;
- Those assisting the committee/select committee/panel will be treated with respect and courtesy;
- The investigation will be conducted so as to maximise the efficiency of the investigation or analysis.

## **22. Overview & Scrutiny of Crime and Disorder Issues**

### **22.1 Definitions**

For the purposes of these procedure rules:-

“responsible authority” means those defined as such by S5 of the Crime and Disorder Act 1998 and any amendments thereto from time to time (currently the Council and the Police)

“co-operating person or body” means those defined as such by S5 of the Crime and Disorder Act 1998 and any person prescribed as such by the Secretary of State from time to time (currently the probation service)

“crime and disorder functions” are those functions conferred by or under Section 6 Crime and Disorder Act 1998.

## **22.2 Remit**

The Council appoints an overview and scrutiny committee or sub committee to fulfil the overview and scrutiny function in relation to the discharge by responsible and co-operating persons/bodies of their crime and disorder functions, as required by S19 Police & Justice Act 2006 as amended from time to time, and all other relevant legislation. The overview and scrutiny select committee with these functions is the Safer Stronger Communities Select Committee (see art 6.6).

## **22.3 Co-optees**

The Safer Stronger Communities Select Committee may co-opt additional members to serve on that select committee. Any such co-optee is not entitled to vote on any particular matter unless the Select Committee so decides and it may only do so in accordance with a co-option scheme agreed by the Council. A co-optee’s membership may be limited to the exercise of the select committee’s powers in relation to a particular matter or type of matter.

## **22.4 Withdrawal of co-option**

Membership of a person co-opted to serve on the Safer Stronger Communities Select Committee may be withdrawn at any time by the select committee.

## **22.5 Request for information**

The Safer Stronger Communities Select Committee may make a written request to a responsible body or co-operating person or body for information relating to

- (a) the discharge, or decisions made or other action taken in connection with the discharge of their crime and disorder functions, or
- (b) local crime and disorder matters in respect of which the select committee has overview and scrutiny functions by virtue of s19 of the Police and Justice Act 2006.(see para 22.10 below)

## **22.6 Supply of information**

Where a written request is made for information, the responsible authority/co-operating person or body must provide the requested information. It should be supplied no later than the date indicated in the request, but if some or all of the information cannot reasonably be provided by such date, it must be provided as soon as reasonably possible.

## **22.7 Nature of information to be provided**

The information provided

- (a) must be de-personalised unless the identification of an individual is necessary or appropriate to enable the Safer Stronger Communities Select Committee to properly exercise its powers; and
- (b) shall not include information that would be reasonably likely to prejudice legal proceedings or current or future operations of the responsible authorities, whether acting together or individually, or of the co-operating person or bodies.

## **22.8 Attendance**

The Safer Stronger Communities Select Committee may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to answer questions. The select committee will give reasonable notice of the intended date of attendance. In the absence of reasonable notice, the person will not be required to attend.

## **22.9 Reports and Recommendations**

If the Safer Stronger Communities Select Committee makes a report or recommendation to a responsible authority or to a co-operating person/body, that person or body must respond to the report/recommendation in writing within 28 days of the date of making the report/recommendation, or if this is not reasonably possible, as soon as reasonably possible after that.

## **22.10 Agenda Items**

- (a) Any member of the Council may refer a local crime and disorder matter to the Committee for inclusion on the agenda and for discussion at a meeting of the select committee.
- (b) In deciding whether to exercise its powers in response to the referral, the select committee will have regard to any powers available to the referring member by virtue of Section 236 Local

Government in Health Act 2007 (exercise of functions by councillors) and any representations made by the referring member as to why it would be appropriate for the select committee to exercise its powers.

- (c) If the select committee decides not to exercise its powers it will inform the referring member and give reasons for its decision.
- (d) Where the select committee makes a report/recommendations, it must supply a copy to the referring member and a copy to the responsible authorities and co-operating bodies/persons as it considers appropriate. It must inform those authorities/bodies that they must respond indicating what action (if any) they intend to take and that they must have regard to the report/recommendations in exercising their functions. A response must be made within 28 days or if that is not possible as soon as is reasonably possible thereafter.
- (e) For the purposes of paragraph 22.9, a “local crime and disorder matter” means a matter concerning crime and disorder, in particular forms of crime and disorder that involve antisocial behaviour or other behaviour adversely affecting the local environment or the misuse of drugs, alcohol or other substances affecting all or part of the ward for which the member was elected or any person who lives or works in that area.

## **23 Scrutiny of health matters**

- 23.1 The Council has appointed the Healthier Communities Select Committee to carry out, among other things, the scrutiny of health bodies under the Local Authority (Public Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and other relevant legislation in place from time to time.
- 23.2 The Healthier Communities Select Committee may review and scrutinise any matter relating to the planning, provision and operation of health services in the area.
- 23.3 The Healthier Communities Select Committee may make reports and recommendations to local NHS bodies and to the Council/Executive on any matter reviewed or scrutinised by it. Such reports will contain an explanation of the matter reviewed, a summary of the evidence considered, a list of participants involved in the review and any recommendations made.
- 23.4 The Healthier Communities Select Committee may request a response from the NHS body to whom it has made a report and the NHS body is under a duty to provide one within 28 days of the request.

- 23.5 NHS bodies must, subject to certain exceptions, consult the Healthier Communities Select Committee about any proposal for substantial variation in, or substantial development of, a service in the area, and where consulted the Select Committee is entitled to comment, and in appropriate cases the Select Committee may ask the Council to make referrals to the Secretary of State under the 2013 Regulations.
- 23.6 The Healthier Communities Select Committee may require a local NHS body to provide such information about the planning, provision and operation of health services in the Borough as the Select Committee reasonably requires and the NHS body is under a duty to provide it subject to certain exceptions set out in regulation.
- 23.7 Subject to any directions made by the Secretary of State, the Healthier Communities Select Committee may require an officer of a local NHS body to attend before it to answer questions, and it shall be the duty of such an officer to comply, provided reasonable notice of the requirement to attend has been given.
- 23.8 The Council may from time to time appoint joint committees to discharge the overview and scrutiny function in relation to local health bodies and may delegate relevant overview and scrutiny functions to another authority's overview and scrutiny committee where it considers that that other authority would be better placed to undertake the function and that other Council agrees to do so.

## **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.*

*After a budget decision is made the names of those voting for, against or abstaining must be recorded. If the Council decides to set a budget in excess of principles set by the Secretary of State, it must also set a compliant budget which would be effective if a binding referendum, which by law must be held, does not support the Council's decision to approve a budget in excess of the Secretary of State's limits.*

*Where there is any discrepancy between this précis and the detailed rules below, the rules prevail.*

### **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
- 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 .

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

- (b) 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.
- (c) 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.
- (d) 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.
- (e) Before the Council
  - 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
  - iii. adopts (with or without modification) the plan or strategy

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.

- (f) If the Council does instruct the Mayor in accordance with (e) 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:-
- 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.
- (g) 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.
- (h) 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,

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.

- (i) Subject to paragraph (n), where before 8<sup>th</sup> 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 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 522F, or 522J of the Local Government Finance Act 1992 (calculation of Council Tax 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 (j) below.

- (j) 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.
- (k) Where the Council instructs the Mayor in accordance with (j) 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 have been reconsidered in accordance with the Council'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
- (l) Subject to (n) below, when the 10 day period set out in paragraph (m) above has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in (i) 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.

- (m) 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.
- (n) The provisions for approval of the budget in this Part F apply both to a budget that complies with principles set by the Secretary of State under Part 5 Chapter 1 Localism Act 2011 and relevant regulations and one which does not. Where the Council seeks to sets a budget in excess of the principles set by the Secretary of State, it must also hold a referendum in accordance with relevant regulations and propose additional measures that would be included in the budget to be effective in the event that the binding referendum does not approve the

imposition of the budget in excess of the Secretary of State's principles.

(o) Recorded note on budget decisions

- Immediately after any vote is taken at a budget decision meeting, there must be recorded in the minutes of the proceedings at that meeting, the names of the persons who cast a vote for the decision, or against the decision, or who abstained from voting.

(p) A "budget decision meeting" means one which

- (i) makes a calculation (whether original or substitute) in accordance with any of the sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 522F, 522J of the Government Finance Act 1992; or
- (ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept was included as an item of business on the agenda for that meeting.
- References to a vote on any decision are to a vote on any decision related to the making of the calculation or issuing of the precept.

#### **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.

#### **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.
- (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
- (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.

## **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.

**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, as well as meetings of the Executive and any committee of it as set out in this Part G, (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 made under Section 9 of the Licensing Act 2003 and any future rules determined by the Licensing Committee under that Section. Additional access to information rules pertaining only to executive decision making are dealt with at paragraph 12 below.

**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 this Constitution.

**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 Council's main offices, Catford London SE6 4RU (the designated office) and where possible 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 and on the Council's website. 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 if it has not been included in the Council's key decision plan, unless Rule 18 (urgency) or 19 (special urgency applies).

Where reports are completed 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 the Mayor and/or councillors as appropriate.

## **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

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

## **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 conflict of interest and any dispensation granted in relation to that conflict, 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.

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**

- (1) 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 Council's main offices, Catford, SE6 4RU or such other place as the Council decides from time to time.
- (2) Where documents are open to public inspection they will be available at all reasonable office hours at the Council's offices and on its website if it has one, and in relation to background documents referred to in a report, on payment of the Council's reasonable fee.
- (3) The public right to inspect a document includes the right to copy all or part of it and to require a copy of the whole or part on payment of the Council's reasonable fee for postage, copying or other transmission.
- (4) Any member of the public may in any publicly available medium reproduce or provide commentary in relation to any document available for public inspection under regulations applying specifically to executive decisions and documents, save that this does not authorise any breach of the copyright of any person other than the Council by a member of the public.
- (5) The rights conferred by this Paragraph 9 are additional to any other rights.

## **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, all or parts of, 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 all or parts of a meeting 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 appropriate and lawful.

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**

In addition to those rules set out above, the following rules 13 to 19 apply to meetings of the following decision making bodies:

- The executive
- A Committee of the Executive
- A joint committee where all the members are members of a local authority executive and it exercises executive functions, and sub committees of such a joint committee
- An area committee of the executive.

### **13 Public meetings of the Executive**

The Executive will meet in public except to the extent that any of the conditions set out in paragraphs (a), (b) or (c) apply, in which case the public must be excluded.

- (a) It is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence;
- (b) The decision making body passes a resolution to exclude the public during that item where it is likely in view of the nature of the item of business that if members of the public were present during that item, exempt information would be disclosed to them;  
or
- (c) A lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

Any resolution under (b) above must state the part of the proceedings from which the public are to be excluded and state by reference to Schedule 12A Local Government Act 1972 the description of exempt information giving rise to the exclusion of the public.

### **14 Procedure prior to public meeting of the Executive**

- (a) The proper officer will display at the Council's main offices and on the Council's website notice of the time and place of the meeting for at least 5 clear days, or if the meeting is convened at shorter notice, from the time it is convened.
- (b) An item of business can only be considered at a public meeting where a copy of the agenda or part of the agenda including the item has been available for inspection for 5 clear days before the meeting, or if the meeting is convened at shorter notice from the time the meeting was convened.
- (c) The agenda and reports for the meeting must be available for inspection by the public at the Council's main offices and on the Council's website for five clear days prior to the meeting (or if the meeting is convened at shorter notice from the time it is convened, or if the item is added to the agenda, when the item is added to the agenda).
- (d) The proper officer may exclude from any report available for inspection any part which relates only to confidential or exempt information. If a report for consideration at a public meeting contains such matters, every copy will be marked "not for

publication” and will state the reason, namely either that it contains confidential information or exempt information, by reference to the particular ground(s) in Schedule 12A Local Government Act 1972.

- (e) The public shall not be entitled to access to any report until a copy is available to the members of the decision making body.
- (f) A reasonable number of copies of reports will be available for the use of members of the public present when meetings are open to the public.
- (g) Subject to exceptions relating to confidential and exempt information, where a request is made by a member of the public or on behalf of a newspaper, the Council will supply a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting and such further statements or particulars as are necessary to indicate the matters on the agenda and, so far as the proper officer thinks fit, any other documents given to members in connection with the item.

Confidential and exempt information have the meanings set out in Appendix 1.

## **15 Reporting at public meetings of the executive**

- (a) While meetings are open to the public, the provisions of the Protocol provided at Appendix 3 to this Constitution shall apply in its entirety to meetings of the Executive as they do to any other open public meeting of this Council.
- (b) Any person attending the meeting for the purpose of reporting the proceedings shall identify themselves to the Clerk of the meeting and comply fully with the provisions of the Protocol.
- (c) Should the Chair decide at any point during the open meeting, that any or all recording shall stop because he/she deems it to be disruptive or distracting to the good order and conduct of the meeting, then the Chair’s decision shall be final.

## **16 Procedure prior to private meetings of executive decision making bodies**

- (a) 1<sup>st</sup> private meeting notice

At least 28 clear days before the private meeting, the proper officer will make available at the Council’s main offices a notice of intention to hold the meeting in private and publish that notice

on its website. That notice will contain a statement of why the meeting is to be held in private.

(b) 2<sup>nd</sup> private meeting notice

At least 5 clear days before the meeting the proper officer will make available at the Council's main offices and publish on the website a notice which will include a statement of the reasons for the meeting to be held in private, details of any representations received about why it should be open to the public and a statement of its response to those representations.

(c) Urgency

Where the date by which a meeting must be held makes compliance with paragraph 16 (a) and/or (b) impracticable, the private meeting may only be held if the Chair of the Overview and Scrutiny Committee agrees that the meeting is urgent and cannot reasonably be deferred. If there is no Chair of Overview and Scrutiny or he/she is unable to act, the Chair of Council may agree. If there is no Chair of either Overview and Scrutiny or Council, the Vice Chair of Council may agree.

(d) Notice of urgency

Where the Chair of the Overview and Scrutiny Committee gives agreement in accordance with paragraph 15 ( c ) above, the proper officer will, as soon as reasonably practicable, make available at the Council's main offices and publish on the Council's website, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

(e) If the Executive meets in private, the Mayor and 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.

(f) 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.

(g) The provisions of (e) and (f) above are in addition to the requirements set out at G16(a) to (d) above.

## 17 Key Decisions

### (a) Definition

Key decisions are those defined as such at Article 16.

### (b) Decisions to be publicised

Subject to Rule 18 (urgency) and Rule 19 (special urgency), a key decision may not be taken unless the matter has been included in the Council's key decision plan, which must be available for public inspection at the Council's main offices and on the Council's website for 28 clear days before a key decision is made.

### (c) Contents of the key decision plan

The key decision plan will contain the following particulars in so far as the information is available or might reasonably be obtained:-

- (1) That a key decision is to be made;
- (2) The matter in respect of which the key decision is to be made;
- (3) 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;
- (4) The date on which, or the period within which, the decision is to be made;
- (5) A list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which a key decision is to be made;
- (6) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (7) That other documents relevant to the those matters may be submitted to the decision maker; and
- (8) The procedure for requesting details of those documents (if any) as they become available.

Where a document would include exempt or confidential information this will not be included in the key decision plan, but the document must be referred to in the plan.

## **18 General Exception - Urgency**

- 18.1 If it is impracticable for a matter which is likely to be a key decision to be included in the key decision plan, then subject to Rule 19 (special urgency) the decision may only be taken if:-
- (a) 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
  - (b) the proper officer has made copies of that notice available to the public at the offices of the Council and published it on the Council's website if it has one; and
  - (c) at least 5 clear days have elapsed since the proper officer complied with (a) and (b) above.
- 18.2 As soon as reasonably practicable, the proper officer will publish at the Council's main offices and on the Council's website if it has one, a notice setting out the reasons why it was not practicable to comply with the requirement to include the matter in the key decision plan.

## **19 Special Urgency**

- (a) If by virtue of the date by which a key decision must be made, Rule 18 above cannot be followed, then the decision may only be taken if the Chair of the Business Panel agrees that the taking of the decision is urgent and 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 if there is neither a Chair of Business Panel nor Council, the Vice Chair of Council may agree.
- (b) If agreement is given under para 19(1) above, the proper officer will make available at the Council offices, and publish on its website if it has one, a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.
- (c) 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 19. This report must contain particulars of each decision made, and a summary of the matters in respect of which each decision was made.

## 20 Overview and scrutiny rights in relation to the key decision plan and urgency decisions

- (a) If the Business Panel thinks that a key decision has been made which was not included in the key decision plan or properly decided in accordance with Rule 18 or 19, then the Business Panel may require the Executive to submit a report to the Council within such reasonable time as the Business Panel specifies.
- (b) If an Executive report is required in accordance with (a) above, the Executive will then prepare a report for Council setting out the decision, the identity of the individual or body making the decision, and if the Executive 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.

## 21 Right to attend and speak at meetings of the executive

*Members of the Executive* will be able to attend any 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.

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

*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 meeting of the Executive may not take place 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.

*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.

**22 Record of decisions**

As soon as reasonably practicable after any meeting of the executive or any of its committees, the proper officer will produce a record of every decision taken at that meeting. Decisions taken at a meeting may only be taken on the basis of a 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 record of the decision and the date on which it was made;
- (b) a record of the reasons for the decision;
- (c) any alternative options considered and rejected at the meeting;
- (d) a record of any conflict of interest declared in relation to the matter by any member of the decision making body; and
- (e) any dispensation relating to any declared conflict of interest.

**23 Basis for consideration by executive**

- (a) When the Executive makes a decision of any sort, whether collectively, through the Mayor, a committee of the Executive, or through an individual member or officer, 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 the Mayor, a committee of the Executive or an individual member or officer, 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 this constitution.
- (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 the Mayor or individual members or officers of the Executive with the intention that they should be the basis on which a decision is taken, shall be similarly drafted.

**24 Decisions by individual members of the Executive**

- (a) All decisions taken individually by the Mayor alone or by individual 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 the Mayor or 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 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 subject to exemptions relating to reports containing confidential and/or exempt information 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 the Mayor or individual 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 including the date it was made;
  - 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.
- (g) The decision will not be deemed to have been made until the record has been made and publicised in accordance with this constitution.
- (h) 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 Executive decisions by individual officers**

- (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 an executive decision on the basis of a written report. That report must contain key service, corporate, financial and legal considerations.
- (b) The person who supplies a copy of the report to the officer making the decision, must first supply a copy to the proper officer.
- (c) The decision making officer must inform the proper officer immediately any decision has been taken and provide to them a written statement of the decision for publication containing all the details set out below:
- (d) The record will contain:-
- a record of the decision and the date it is made;
  - a record of the reasons for the decision;
  - details of any alternative options considered and rejected by the officer making the decision;
  - a record of any conflict of interest declared by any executive member who is consulted by the officer making the decision; and
  - details of any dispensation in relation to any such conflict of interest
- (e) Nothing in these rules relating to the taking of decisions by individual officers shall require them to disclose confidential or exempt information as defined in Appendix 1 to the public.
- (f) Further provisions relating to officer decisions set out at G32 also apply.

## **26 Access to documents following executive decisions**

- (a) Subject to exceptions relating to confidential and exempt

information (see paragraph 10) after an executive decision has been made, irrespective of whether by an individual or a decision making body, the proper officer will ensure that the record of the decision and any report considered in reaching the decision is made available for inspection by the public at the offices of the Council and on the Council's website if it has one.

- (b) Where a request is made on behalf of a newspaper for a copy of any documents available for public inspection those documents must be supplied on payment by the newspaper of the Council's copying or other necessary transmission charge.

## **27 Inspection of background papers**

Subject to exceptions relating to confidential and exempt information (see paragraph 10) when a report is made available for public inspection either before or after an executive decision is made, it must include a list of the background papers to the report and at least one copy of each of those background papers must be available for inspection at the offices of the Council and on the Council's website if it has one.

## **28 Members' access to documents**

### **28 (1) 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 for a period of at least 5 clear days before that meeting except that where

- the meeting is convened at shorter notice when the document must be available for inspection when the meeting is convened; and
- where the item is added to the agenda at shorter notice the document must be available for inspection when the item is added

- (b) Material relating to previous business

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

- in the possession or under the control of the executive and
  - contains material relating to business transacted at a private meeting, or an executive decision made by an individual member or officer must be available for inspection by any member of the Council when the meeting concludes, or in the case of a decision made by an individual, immediately after the decision is made, and in any event within 24 hours of the conclusion of the meeting/ decision being made.
- (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 by members 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
- (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.

## 28(2) **Overview and Scrutiny members**

- (a) Subject to Rule 28 (2) (c), 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.
- (b) Where a member of the Overview and Scrutiny Committee requests a document falling within (a) above, the Executive must supply a copy as soon as reasonably practicable and in any event within 10 days of the request. If the Executive decides that the member is not entitled to a copy of the document, written reasons must be given to the overview and scrutiny committee.
- (c) 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 adviser. An overview and scrutiny member is not entitled to a report that is in draft.

## **29 Failure to comply with key decision requirements**

- (1) Where an executive decision has been made and:
- was not treated as being a key decision; and
  - the Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision,
- 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;
  - if the executive is of the view that it is not a key decision, the reasons for that opinion.

## **30 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.

**31 Confidential information, exempt information and the advice of political assistant or adviser**

- (a) Nothing in these rules requires the disclosure of a document or part of a document to the public if in the opinion of the proper officer it may contain confidential or is likely to contain exempt information or the advice of a political adviser or assistant.

**32. Officer Decisions**

In addition to the requirements for reporting set out above, when an officer makes any decision whether executive or non executive under a specific express or general authorisation, if the effect of the decision is to

- grant a permission or licence,
- affect the rights of an individual,
- award a contract or incur expenditure which in either case materially affects the Council's position

then the person making the decision must ensure that a written record of the decision is produced as soon as reasonably practicable. The written record must set out

- the date the decision was made with reasons,
- the details of alternative options if any, considered and rejected,
- details (if applicable) of any person who may have declared a conflict of interest in relation to the decision

## **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. or of the partner of such a person.

No candidate so related to a member 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 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 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; and
- (b) 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
- (c) 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 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:

- (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

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

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. The Director of Public Health – recruitment and dismissal**

- (1) The Council's first Director of Public Health transferred to the Council's employment on 1 April 2013 by statutory instrument.
- (2) For subsequent appointments, the following provisions shall apply.
- (3) The appointment will be made by the Council's Appointments Committee acting jointly with the Secretary of State for Health. Current Guidance provides for an advisory appointments committee to be established to advise the Council in accordance with the Faculty of Public Health Guidance. This provides that the advisory panel should be chaired by a lay member such as a local authority elected member. The constitution of the advisory panel is recommended in the Faculty of Public Health Guidance from time to time. The Council must provide the Secretary of State with details of their preferred candidate and their professional competence, compliance with regulation and necessary registration to perform the role. Public Health

England will perform this role on behalf of the Secretary of State. In the event of disagreement between the Council and Public Health England, the matter will be referred to the Secretary of State who will advise the Council about the appointment.

The Council may dismiss the Director of Public Health but before doing so, will consult the Secretary of State.

## **9 Dismissal of Head of Paid Service, chief officers and deputy chief officers**

Subject to Rule (6) above in relation to the Head of Paid Service , Rule (8) above in relation to the Director of Public Health, and subject to Rule (12) 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 (9), “the dismissor” means the Council, a committee, sub-committee or officer of the Council discharging the function of dismissal on behalf of the Council.

**10 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 Head of Paid Service, chief officer or deputy chief officer, must have at least one member of the Executive among its membership.

**11 Eligibility to sit on appeals committees**

Nothing in rule (9) 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.

**12 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 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 (1) 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;
  - (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

**13 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.

**14 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.

**15 Mayor's assistant**

The Council may appoint a Mayor's assistant in pursuance of regulations made under paragraph 6 of Schedule A1 of the Local Government Act 2000 as amended.

**16. Pay Policy Statement**

The Council will approve its Pay Policy Statement annually as required by Section 38 Localism Act 2011 and will act in accordance with it.

## **I CONTRACT PROCEDURE RULES**

### **1. Introduction**

- 1.1 Every contract entered into by the Council for the carrying out of works, or for the supply of goods or services shall be for the purpose of achieving the Council's statutory or approved objectives and shall conform to all relevant European and UK legislation and Council policy.
- 1.2 These Contract Procedure Rules are mandatory and shall govern and regulate Council procurement and contract award procedures. Officers must also refer to the Procurement Code of Practice ("the Code") for more detailed procedures some of which are compulsory.
- 1.3 The primary objective of these Contract Procedure Rules is to ensure that the Council obtains value for money and fulfils its duty of best value as defined in Section 3 of the Local Government Act 1999 in all its procurement activity. They also provide a basis for fair competition by providing transparent and auditable procedures to protect the Council's reputation from any imputation of dishonesty or corruption.
- 1.4 For these reasons it is a disciplinary offence to fail to comply with Contract Procedure Rules when letting contracts and employees have a duty to report breaches of these Contract Procedure Rules to an appropriate senior manager or internal auditor.

### **2. Interests in Contracts**

- 2.1 If it comes to the knowledge of a member or an officer of the Council that a contract in which he or she has a pecuniary interest, has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Council's Monitoring Officer and record it in the relevant Register of Interests.

### **3. European Procurement Legislation**

- 3.1 Every contract let by the Council must comply with the EU Treaty. Where the estimated value of a proposed contract intended to be let by the Council exceeds or is likely to exceed EU procurement thresholds, the contract must be procured in accordance with the EU Consolidated Procurement Directive (EC/18/2005) as included in the Public Contracts Regulation 2006 and amendments thereto and all other European legislation as amended from time to time. Any services contract that is above the EU threshold must also be procured in accordance with the Public Services (Social Value) Act 2012.

#### **4. Localism Act 2011**

- 4.1 The Localism Act 2011 has introduced a “Community Right to Challenge” (CRTC) which enables charities, voluntary groups, parish councils and two or more employees of the Council to express an interest in providing or assisting with the provision of a service on behalf of the Council.
- 4.2 CRTC is a formal process that requires specific information and evidence and other criteria prescribed nationally in Regulations and Statutory Guidance to be met. The Council will publish a Statement containing detailed procedures, including the information required in an expression of interest for those wishing to challenge, the timeframes for submission of such expressions of interest and how the expression of interest will be considered, which must be followed.
- 4.3 If a challenge is accepted, a procurement process for that service is triggered and the Contract Procedure Rules set out in this Section must then be followed.

#### **5. Public Services (Social Value) Act 2012**

- 5.1 The Public Services (Social Value) Act 2012 requires the Council to consider how what is to be proposed to be procured might improve the economic, social and environmental well-being of the relevant area when procuring a public services contract above the EU threshold. In conducting the procurement the Council must consider how it might act with a view to securing that improvement.
- 5.2 The Council must consider whether to undertake any consultation as to the matters that should be considered under paragraph 5.1 above.
- 5.3 This consideration must be given before the procurement process has started.
- 5.4 Those matters to be considered must only be matters that are relevant to the service that is proposed to be procured and it must be proportionate in all the circumstances to take those matters into account.
- 5.5 The Best Value duty still applies and must be considered throughout the procurement process and the Public Services (Social Value) Act 2012 does not remove this duty.

#### **6. Estimate of Expense Involved**

- 6.1 An estimate of contract value must be prepared and recorded in writing prior to the commencement of any procurement exercise. This is to be calculated on the basis of the total amount payable to the contractor,

supplier or service provider over the whole contract period. All such estimates shall be kept in a central register by the relevant Executive Director.

- 6.2 No procurement shall proceed unless the expenditure required has been fully considered, approved and sufficient money has been allocated in the relevant budget.

## **7. Authority to Procure**

- 7.1 Prior to any procurement, officers must ensure that they have sufficient delegated authority to procure given in accordance with the Council/Mayoral scheme of delegation in force from time to time.

- 7.2 Officers seeking to procure works, goods or services on the Council's behalf must;

7.2.1 produce a robust, justifiable and sustainable business case before a procurement activity commences which must be contained in a written endorsement by the service head and/or the Executive Director; and

7.2.2 maintain the necessary audit trails to support the business justification and approval process.

## **8. Contract Register**

- 8.1 A register of all tenders dispatched and received by each Executive Director shall be maintained by that Executive Director in a format approved by the Executive Director for Resources and Regeneration

- 8.2 All contracts of a value exceeding £ 200,000 shall be noted in a register maintained by the Head of Procurement as shall any other contractual documentation which in his or her view ought to be so registered. This register shall contain the details of the contractor, the date of the contract, the nature and value of the works, services or supplies and the commencement and termination date. An original copy of the contract shall be kept for the statutory limitation period.

## **9. Category Values**

- 9.1 There are 3 categories of Contracts.

- 9.1.1 **Category A** Building, construction and engineering works contracts ("Works Contracts") with an estimated value of over £1m and all other contracts with an estimated value of over £500,000.

- 9.1.2 **Category B** Works Contracts with an estimated value of between £50,000 and £1m and all other contracts with an estimated value of between £50,000 and £500,000.
- 9.1.3 **Category C** All other contracts with an estimated value of less than £50,000

## 10. Procurement Routes

### 10.1 **Competitive tendering**

For Category A and B contracts each procurement must, unless an exception has been granted under Rule 13 below, be subject to a formal tender exercise which shall be carried out in the following way:-

- 10.1.1 by an invitation to tender by public advertisement or selection from approved lists in accordance with the method of inviting tenders set out at Rule 11 below; or
- 10.1.2 subject to the approval of the Executive Director for Resources and Regeneration upon the advice of the Head of Law, by the use of public sector consortia contracts or frameworks where the Council is able to procure goods, services or works:
- where the Council itself is part of a public sector consortium contracting with one or more contractors and where the contract or framework has been competitively tendered and is an EU compliant procurement (or exempted from the same); or
  - by selecting one or more contractors using a framework agreement, (essentially, an arrangement which establishes the contractual terms which will apply to subsequent orders made for the goods, services or works covered by the framework over the period of time during which the framework is in force) or dynamic purchasing system (an electronic purchasing system remaining open to new bidders throughout the term), established by a public sector body (or bodies) and which has been competitively tendered, and is an EU compliant procurement (or exempted from the same) and local authorities are named (specifically or by description) as contracting authorities; and

in both cases:

- the term of the arrangement is no longer than four years duration; or longer, up to eight years, in exceptional circumstances, relating to the subject matter of the framework agreement and where the grounds justifying the longer term appear in the EU contract notice. (For example, a longer term may be justified in large value infrastructure contracts where a contractor is putting in a lot of investment and requires time to recover this outlay), and

- the rates and prices offered by contractors, balanced against the quality and convenience of using of a consortium, framework or dynamic purchasing scheme represents best value to the Council in all the circumstances.

## **10.2 Concession Contracts**

10.2.1 In the case of services contracts where part or all of the remuneration received by the contractor consists of the right to exploit the services in question, these are excluded from the application of the EU Directive/Public Contracts Regulations 2006 requiring them to be advertised in Europe. ( For example, a waste disposal contract allowing the contractor to recycle waste products and keep the proceeds to recover its costs, possibly paying the Council for the right to do so.)They are still subject to competition and the relevant Category for determining the procurement route under these Contract Procedure Rules will be calculated by applying the estimated consideration which would have been given if the services had been paid for by the Council.

10.2.2 Where the contractor is willing to pay the Council for exploiting the services, then a competitive process must still be undertaken to determine which offer represents best value taking into account the obligations which will be placed upon the contractor.

10.2.3 In the case of a works concession contract , this will be subject to the EU Directive/ Contracts Regulations 2006 where the estimated value exceeds the relevant EU threshold, applying the estimated consideration which would have given if the works had been paid for by the Council. If the value is below the EU threshold, it must still be subject to a competitive process in accordance with these Contract Procedure Rules

## **11. Method of Inviting Tenders**

### **11.1 Category A Contracts**

11.1.1 In the case of Category A Contracts and those above the relevant EU threshold, 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.

11.1.2 If the Executive Director for Resources and Regeneration 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 for Resources and Regeneration so authorises, then tenders may be invited from at least **5** other contractors, suppliers or service providers.

- 11.1.3 In the case of other Category A Contracts which are below the relevant EU threshold, officers 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 Executive Director for Resources and Regeneration upon the advice of the Head of Law See Rule 12 below.

## **11.2 Category B Contracts**

- 11.2.1 In the case of Category B Contracts where the contract value is above the relevant EU threshold tenders shall be invited by open advertisement. Where they are below the relevant EU threshold they will normally be invited by open advertisement, or with the prior written approval of the relevant Executive Director, from a minimum of **5** contractors/suppliers appearing on the Council's approved list.

- 11.2.2 If the Council does not maintain an appropriate approved list and if the Executive Director for Resources and Regeneration so authorises then tenders may be invited from at least **5** tenderers, or negotiate with a single tenderer unless there are special circumstances which must be approved by the Executive Director for Resources and Regeneration upon the advice of the Head of Law . In determining whether there are special circumstances regard must be had to the factors set out at 13.3 a) to c) below.

## **11.3 Category C Contracts**

- 11.3.1 In the case of Category C contracts, written quotations shall be sought as follows:

<u>Estimated Value</u>	<u>Minimum Number of Quotations</u>
Under £10,000	Two written
£10,001 to £25,000	Three written
£25,001 to £50,000	Four written

NOTE : At least one of the quotations must be from a local contractor, supplier or service provider, if feasible.

## **12. Two Stage Procurement Process**

- 12.1 Where it is proposed to use a two stage procurement process involving the invitation of expressions of interest from potential tenderers at stage 1 and then subsequently invite tenders from those shortlisted at

stage 2, then authority to agree the shortlist has to be obtained from the relevant Executive Director upon the advice of the Head of Law.

- 12.2 The evaluation criteria for the shortlist must be based only upon the economic and financial standing and the technical or professional ability of the potential tenderers. relevant to the subject matter of the contract being tendered.
- 12.3 The decision to accept or reject the shortlist can only be taken where the application for such a shortlist is submitted by a written report containing service, legal and financial implications and fully documenting the circumstances and explaining the process, including the criteria for choosing the shortlist.

### **13. Exception to the Contract Procedure Rules**

- 13.1 An exception to the Contract Procedure Rules can only be authorised in exceptional or unforeseen circumstances.
- 13.2 Any exception must be approved by the Executive Director for Resources and Regeneration upon the advice of the Head of Law.
- 13.3 To authorise the exception, the Executive Director for Resources and Regeneration upon the advice of the Head of Law must be satisfied after considering a written report by the appropriate officer that the exception is justified because:
- a) the nature of the market for the works to be carried out or the goods and/or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Contract Procedure Rules is justifiable; or
  - b) the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
  - c) there are other circumstances which are genuinely exceptional; and in all cases:
    - it is in the Council's overall interest;
    - and the circumstances of the proposed contract are covered by legislative exceptions (whether under EU or UK law).
- 13.4 An exception to the Contract Procedure Rules can only be authorised where the application for such exception is submitted by a written report fully documenting the circumstances and explaining why the exception is required.

- 13.5 Where an exception to the Contract Procedure Rules is sought for a second time in relation to the same contract, then regardless of the value of the contract, that exception must be given formally by the appropriate member decision forum.

#### **14. Submission of Tenders**

- 14.1 In circumstances where the contract specification can be established with precision and with the agreement of the Executive Director for Resources and Regeneration, the Council may conduct an electronic auction prior to the award of the contract in order to achieve the most economic price.
- 14.2 In circumstances approved by the Executive Director for Resources and Regeneration the Council may use electronic requests for quotations and tenders, and dynamic purchasing systems to determine the most economically advantageous contractor for the works, goods or services required as any need is established.
- 14.3 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.

#### **14.4 Tenders submitted in hard copy form**

- 14.4.1 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.

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

<b><u>Category A Contracts</u></b>	To the Chief Executive.
<b><u>Category B Contracts</u></b>	To the Executive Director inviting the tender.
<b><u>Category C Contracts</u></b>	To the Head of Service inviting the tender.

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

#### **14.5 Tenders submitted via electronic means**

- 14.5.1 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.
- 14.5.2 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 and Regeneration . All such tenders will remain unopened until the time appointed for their opening.
- 14.5.3 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 instructions issued by the Executive Director for Resources and Regeneration.

#### **15. Opening and Acceptance of Tenders (Submitted in Hard Copy or Electronic Form)**

##### **15.1 Category A Contracts**

- 15.1.1 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 and Regeneration or Head of Law.
- 15.1.2 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 and Regeneration or Head of Law and a record shall be made in an electronic folder or by alternative means.
- 15.1.3 In the case of electronic auctions a report should be brought to Mayor and Cabinet (Contacts) in relation to matters within the remit of the Executive, or to the appropriate Committee of the Council in relation to non-executive matters, to agree the use of electronic auction for the relevant procurement and to delegate to the Executive Director for Resources and Regeneration upon the advice of the Head of Law the decision whether to accept the tender.

##### **15.2 Category B Contracts**

- 15.2.1 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 and Regeneration.

15.3.2 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 Regeneration and a record shall be made in an electronic folder as appropriate.

15.2.3 In the case of an electronic 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.

### 15.3 **Category C Contracts**

15.3.1 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.

## 16. **Late Submissions, Errors, Discrepancies and Alterations**

16.1 A tender or quotation received after the time and date specified in the invitation shall not be accepted or considered unless exceptionally at the time of receipt, other tenders have not been opened and the relevant Executive Director upon the advice of the Head of Law authorises in writing that it can be accepted.

16.2 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.

16.3 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 Regeneration and the Head of Law.

16.4 Where the Council uses an electronic 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.

## 17. **Award of Contract**

17.1 **Category A Contracts** - Decisions about the award of a Category A contract can only be made in accordance with the Council's Scheme of Delegation for non-executive functions or the Mayoral Scheme of Delegation for executive functions, in both cases having regard to the advice of the Executive Director for Resources and Regeneration and the Head of Law.

- 17.2 **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 £500,000 or more in accordance with the Council's or Mayoral Scheme of Delegation as appropriate and subject to the written approval of the Executive Director for Resources and Regeneration. In all cases the reasons for acceptance shall be recorded in the contract register referred to in paragraph 8.
- 17.3 **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.
- 17.4 **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 and Regeneration. If the tender exceeds the written estimate of the value of the contract by £100,000 (£250,000 in the case of Works) or more, it shall be referred for approval to the appropriate committee for non-executive functions or in accordance with the Mayoral scheme of delegation in relation to executive functions. In both cases, the decision shall be taken having regard to the advice of the Executive Director for Resources and Regeneration.
- 17.5 **Energy Contracts**
- 17.5.1 The privatisation of the energy market has created a volatility in prices which requires an exception to be made to the Contract Procedure Rules for the award of energy and water contracts. The Executive Director for Resources and Regeneration has delegated authority to award energy or water contracts regardless of value subject to the conditions set out at 17.5.2 below.
- 17.5.2 At the completion of the tender opening, officers shall undertake proper checks and analysis and prepare a report to the Executive Director of Resources and Regeneration on the outcome with a recommendation for the award of contract. The delegated authority of the Executive Director shall not apply and approval must be obtained in accordance with the Mayoral Scheme of Delegation if :
- the additional cost of green electricity over brown exceeds 5%
  - the overall cost of the contract exceeds the annual value of the previous contract by 50%
  - the contract length exceeds 3 years
- 17.5.4 An information report shall 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. The parameters for the delegation will also be reviewed and agreed at the same time.

## **17.6 Frameworks**

17.6.1 As stated in paragraph 10.1.2 if an external framework is the chosen procurement route then authority from the Executive Director for Resources and Regeneration is required to access the framework.

17.6.2 As most frameworks include multiple contractors, suppliers or service Providers, the next stage will involve conducting a mini-competition between all those on the framework who are capable of providing the requirement. It is possible to choose a single company from a framework using the pre-tendered rates and if this route is chosen a single tender action exception would be required under Contract Procedure Rule 12 above.

17.6.3 If a mini-competition is held, then the process for the award of contract would be based upon the contract value Category as shown in paragraphs 17.1 – 17.3 above.

## **18. Scrutiny/Standstill Period**

### **18.1 Standstill period**

Where the contract has been tendered under the EU procurement regime the contract cannot come into force until a mandatory 'standstill' period has elapsed. The standstill period is:

- 10 day period between contract award and the contract actually being signed where the notification to bidders is sent electronically or by fax; or
- 15 day period after the sending date where the letter is sent by means other than fax or email.

The purpose of the standstill period is to allow unsuccessful tenderers the opportunity to suspend the process by judicial challenge where they consider that they have a valid case to challenge the award decision.

### **18.2 Scrutiny**

Where the contract is for building, construction and engineering works contracts with an estimated value of over £1m or other contracts with an estimated value of over £200,000, its award by the Executive will be a key decision under Article 16 of the Constitution and will be subject to scrutiny by the relevant Business Panel of the Council. It is therefore

necessary to observe all necessary scrutiny timescales between the award of contract and the execution of the contract.

- 18.2.1 Where the contract has been procured through an EU procurement, the scrutiny period will run in parallel with the standstill period and the contract cannot be executed until the expiry of the scrutiny period or the standstill period whichever is the later.

## **19. Requirement for contracts to be in writing**

- 19.1 All contracts shall 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.

### **19.1.1 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 £200,000 shall be signed by the Head of Law or by the Executive Director or Director of Regeneration and Asset Management (or their duly authorised representatives) and in that event a copy must be kept and an electronic copy provided to the Head of Procurement.

Property Contracts with a value in excess of £200,000, 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 an Executive Director and at least one other officer duly authorised by them.

Property Contracts with a value in excess of £200,000 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).

### **19.1.2 All other Contracts**

Contracts in excess of £200,000 in value 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).

Contracts with a value between £100,000 and £200,000, must be signed by an Executive Director and at least one other officer and a copy produced to the Head of Procurement for the details to be included in the contract register under Contract procedure Rule 7.

Contracts with a value up to £100,000, must be signed by an Executive Director and a copy produced to the Head of Procurement for the

details to be included in the contract register under Contract procedure Rule 7 .

## **20. Variations and Extensions**

20.1 Subject to the Council/Mayoral Scheme of Delegation, and Contract Procedure Rule 12 (exception) and upon the advice of the Head of Law, a decision to vary an existing contract can be taken only in the following circumstances:

20.1.1 where it is permitted under the terms and conditions of the contract; or

20.1.2 where it is outside the scope of the original contract terms provided it is:

- the same or similar to the works, services or goods of the contract; and
- within the description contained in the contract notice and/or specification issued to tenderers;
- economically prudent and lawful to do so.

20.2 A decision to extend an existing contract for a particular period can be taken provided:

20.2.1 such extension is permitted under the terms and conditions of the contract; or

20.2.2 it is a single extension of the contract by up to 1 year or half the contract term (whichever is less) **provided** that if the contract was procured under the EU procurement regime and/or an OJEU Notice or other notice as required under the EU regime was published, its wording permits the contract to continue for the further defined period; and

20.2.3 where the existing contract was below the relevant EU threshold the extension shall not cause it to exceed such threshold limit unless it is permissible lawfully;

and in all cases

- the appropriate level of approval in accordance with the Council 's Scheme of Delegation for non-executive functions or the Mayoral Scheme of Delegation for executive functions shall be the value of any such variation or extension together with any pre-existing variations or extensions.

- no variation or extension of the contract period may be made unless the performance of the contractor is satisfactory and there is adequate budgetary provision.

## **21. Liquidated and Ascertained Damages**

- 21.1 All service and works contracts with the exception of those contracts which have a value below £50,000, shall provide for liquidated damages, save where the Executive Director for Resources and Regeneration upon the advice of the Head of Law determines that it is not appropriate.

## **22. Security and Guarantee**

- 22.1 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 and Regeneration upon the advice of the Head of Law, sufficient in all the circumstances.
- 22.2 A performance guarantee bond and/or parent company guarantee may be required as a condition for the award for contract having taken due account of the risks, if any, to the Council in entering into a contract for the carrying out of works or provision of services.
- 22.3 In relation to a contract with a value above £50,000 the Executive Director for Resources and Regeneration upon the advice of the Head of Law shall consider whether there is a need to take security against the contractor's performance and the contractor's potential liabilities taking account of the risks associated with the subject matter of the contract. Where, after an assessment and upon the advice of the Head of Law he or she judges the risks of the procurement low, a bond and/or guarantee need not be taken.
- 22.4 All tender documentation for contracts over £50,000 shall make reference to the potential for taking security in the form of a guarantee bond and/or parent company guarantee.

## **23. General Rule**

The existing delegation by the Mayor to Mayor and Cabinet (Contracts) shall not prevent him from reserving the functions to himself. Should he do so, references in these Contract Procedure Rules to Mayor and Cabinet (Contracts) shall be to the Mayor. Similarly should he delegate the functions of the Mayor and Cabinet (Contracts) elsewhere, reference shall be to the body/person to whom the Mayor has delegated these functions.

**24. Grant Funded Expenditure**

Where the Council receives grant funding and is named as the accountable body for the expenditure of monies where the terms of the grant permit the Council to directly carry out the works or procure services or purchase goods, any procurement under such grant funding shall be conducted in line with the Contract Procedure Rules.

24.2 Where any such grant funding is for use by a third party the obligation to account for the funding contained in the grant terms will be included in the agreement with the third party. Further, the terms of making the grant shall require the third party to competitively tender services, goods or works in accordance with the EU procurement regime and UK regulations. They shall also reflect the Council's strategies, policies and objectives insofar as they apply or are compatible with the funding objectives as set out in the grant terms imposed upon the Council together with its procurement rules as set out in the Contract Procedure Rules.

24.3 The Head of Law shall, in relation to such grant funding, give consideration as to whether it constitutes State Aid as defined under EU legislation and if so provide directions as to the management of such funding to comply with EU and UK law.

**25. Maintained Schools where there is no delegated budget to the School**

24.1 Where the Council is procuring works, services or goods on behalf of a school without a delegated budget then it must follow its own procurement rules as set out in these Contract Procedure Rules.

## **J COMMITTEES - GENERAL RULES**

### **1. Political balance**

Save where the law provides otherwise, each committee and sub 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. Membership of the Health and Wellbeing Board does not need to be politically balanced.

### **2. Proceedings**

Each Committee (with the exception of the overview and scrutiny committee and the Health and Wellbeing Board) 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. Special provisions relate to Health and Wellbeing Boards (see paragraph C32)

### **4. Chairing Committees**

No person may be elected as Chair or Vice Chair of a Committee or sub-committee unless he/she is an elected member of the Council. Special provisions relate to Health and Wellbeing Boards (see paragraph C32)

### **5. Membership of sub committees**

At least a majority of every sub committee must be elected members of the Council. Special provisions relate to Health and Wellbeing Boards. See Article 9.4 for its composition

### **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 all committees and sub committees, no business may be conducted unless at least one quarter of the entire number of

councillors on the committee are present. Special provisions relate to Health and Wellbeing Boards (see paragraph C32)

- (b) Notwithstanding (a) above, in no case shall the quorum for any committee (or a sub committee) be less than 3.
- (c) 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.
- (d) 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**

Subject to the provisions of the Council's Member Code of Conduct, a 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. Save to the extent expressly provided to the contrary in the Constitution, he/she shall not take part in the proceedings without the consent of the committee or sub committee. He/she may not vote.

#### **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 in any year.

#### **10. Absence of Chair**

In the absence of the Chair from a meeting, the Vice-Chair will preside. If neither are present, a chair for that meeting shall be elected.

#### **11. Limitation on chair/vice chair and members of the Executive**

Executive members may not chair standing committees or sub-committees. Subject to exceptions set out in this paragraph, the Chair or Vice-Chair of a standing committee or sub committee shall not be the Chair of any other standing committee or sub committee. However, 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, the Chair of the Audit Panel, the Chair of an Appointments Committee and the Chair of the Standards Committee 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) (Except in the case of the select committees appointed by the Overview and Scrutiny Committee,) 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 an ex officio member 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 he/she chairs 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 in writing to the proper officer stating the business to be considered. However, in no case shall 2 or fewer 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.

#### **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) Decisions at joint meetings shall nevertheless be determined separately 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) Each committee must be quorate for business to be conducted at the joint meeting.
- (d) Any report of a joint meeting of committees to the Council shall be submitted by the Chair elected for the meeting.
- (e) 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.

## **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 31<sup>st</sup> July 2014. 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 & Regeneration.

Attached to these Regulations are the Financial Procedures issued by the Executive Director for Resources & Regeneration. These are integral to the Regulations and provide further explanation of the procedures to be followed by officers in discharging their financial duties. Financial Procedures are updated from time to time by the Executive Director for Resources & Regeneration 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, including gross misconduct, and lead to formal disciplinary action.

In the following Financial Regulations 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 and Standing Orders Part IV Section D3 of the Constitution). 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.

The scheme of delegation consists of delegations of executive functions and powers from the Mayor (Article 15.2 and Council Rules of Procedure and 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 Monitoring 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 & Regeneration.

## **A Roles and responsibilities statement**

### **Chief Finance Officer**

A.1. S151 Local Government Act 1972 requires a named officer, who must be a CCAB qualified accountant, to take responsibility for the proper administration of the Council's financial affairs. S114 Local Government Finance Act 1988 requires the Chief Finance 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 & Regeneration.

A.2. The Council's Constitution sets 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, the Chief Financial 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 & Regeneration is also specifically responsible for advising and reporting 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

- the 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 & Regeneration 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 & Regeneration shall have access to all financial records held in the Council and require explanations from Council officers as necessary.

A.6. The Executive Director for Resources & Regeneration shall oversee Council procedures regarding debt recovery determined by the Executive Director for Customer Services.

A.7. The Executive Director for Resources & Regeneration shall receive a report, from the appropriate Executive Director, of any material breach of financial regulations or procedures. If deemed to be of a serious nature, then the Executive Director for Resources & Regeneration shall submit an appropriate report to the Executive.

### **Executive Directors**

A.8. Executive Directors have overall accountability 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 & Regeneration on any matter which is liable materially to affect 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.

### **Director of Regeneration and Asset Management**

A.10 The Director of Regeneration and Asset Management shall be accountable to the Executive Director for Resources & Regeneration for all matters pertaining to Section 151 responsibilities as they affect the Council's property. Where a potential conflict arises between the service considerations and the S151 duties, the S151 duties must prevail.

## **Heads of Service**

A.11. Under the arrangement for financial devolution, there shall be three Heads of Service designated to support Executive Directors and budget holders in discharging their financial and budgetary responsibilities. The Heads of Service shall be as follows:

- Head of Corporate Resources and Deputy S151 officer
- Head of Financial Services
- Head of Resources (Schools), Children and Young People's Directorate

A.12. They shall be accountable to the Executive Director for Resources & Regeneration on all matters pertaining to Section 151 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.13. 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.14. 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 the Rules of Procedure and Standing Orders (G23).

## **Key Decisions**

A.15. 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 (Rules of Procedure 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 list 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 a significant reduction in the provision of, any Council

service

- the fixing of fees and charges for Council services
- granting or withdrawing financial support to any external organisation in excess of £10,000
- writing off any individual bad debt in excess of £50,000, unless the Council has within the last three 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
- the award of a contract with a total value of £200,000 or more
- consideration of any matter in which, to the decision-maker's knowledge, the decision-maker (or any member of a committee or subcommittee 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

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 Council and proposed by the Executive on the advice of the Executive Director for Resources & Regeneration. 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 & Regeneration is responsible for issuing guidance on the general content of the budget. Following approval of the budget for the forth coming year by full Council, the Executive Director for Resources & Regeneration will allocate resources for discharge by the directorates, which will operate within cash limits.

B.3. Financial control and administration is the responsibility of officers in finance, 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 & Regeneration.

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 includes 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 & Regeneration, 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 accountable 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 accountable 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 and Directorate Schemes of Delegation.

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 & Regeneration.

B.7. At the end of the financial year and following closure of the revenue accounts, Executive Directors will report to the Executive Director of Resources & Regeneration on the outturn of expenditure and income and the comparison with the approved budget. The Executive Director for Resources

& Regeneration will report on the aggregate of the revenue outturn for all services to the Executive and full Council.

### **Budget Virements (Please see definition on page 18)**

B.8. All budget virements shall be in accordance with the Financial Procedure for budget preparation and the limits set by Council. Currently Executive Directors can vire up to £500,000 with the approval of the Executive Director for Resources & Regeneration. The delegated limits are set out in each Directorate's Scheme of Delegation. Executive approval is required for budget virements between £500,000 and £1m and full Council approval for budget virements of £1m and over.

### **Treatment of year-end balances**

B.9. The Executive Director for Resources & Regeneration is responsible for agreeing procedures for carrying forward under and over-spending on budget headings as part of the final outturn.

### **Resource allocation**

B.10. The Executive Director for Resources & Regeneration 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 budget virement regulations pertaining to capital expenditure relate to new schemes, as budget virements from one scheme to another are not permitted. However, budget virement levels are set to ensure that new schemes have the appropriate level of approval as follows:

- up to £500k on the Council's capital programme delegated to Executive Director for Resources & Regeneration
- over £500k and up to £1m on the Council's capital programme delegated to the Mayor
- over £1m on the Council's capital programme full Council.

B.12. At the end of the financial year and following closure of the capital accounts, the Executive Director for Resources & Regeneration shall report to the Executive on the aggregate of capital expenditure compared to budget and the financing of the expenditure.

### **Repairs and Maintenance**

B.13. For Repairs and Maintenance items, the Director of Regeneration and Asset Management in exercising delegation from the S151 officer may determine to move resources between schemes and divert their Repairs and

Maintenance allocation towards any stream of revenue payments due under PFI or PPP contracts.

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 & Regeneration 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 & Regeneration. 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 & Regeneration.

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 & Regeneration, and that the financial systems are kept up to date.

B.19. All financial systems shall be referred to the Executive Director for Resources & Regeneration 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 & Regeneration 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 & Regeneration (or an officer authorised in writing by the Executive Director for Resources & Regeneration) is the only officer who can enter into banking arrangements on behalf of the Council.

C.2. Income receipts over £100,000 shall be notified to the Executive Director for Resources & Regeneration' Treasury Team in advance, 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 & Regeneration or an officer authorised in writing by the Executive Director for Resources & Regeneration.

**Audit requirements**

C.4. All principal local authorities and other relevant bodies subject to the Accounts and Audit Regulations (Amendment) (England) Regulations 2011 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 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 Revenue & Customs, 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 & Regeneration is accountable 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 Executive Director for Resources & Regeneration.

C.10. It is the responsibility of any employee discovering or having reasonable suspicion of any irregularity, misconduct or fraud immediately to notify the relevant Executive Director or Audit and Risk Manager. When so informed, the Executive Director shall appraise the circumstances and shall notify and discuss the action to be taken concurrently with the Audit and Risk Manager. 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
- 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 EU 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 & Regeneration. 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. 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.

### **Related Party Transactions**

C.21. Members, Executive Directors, Heads of Service and all staff graded SMG1 and above shall state any declarations of interest or related party transactions at least once a year in accordance with the guidance issued.

### **Consultants**

C.22. 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.23. Each Executive Director 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 & Regeneration, ensuring their security and arranging insurance through the Executive Director for Resources & Regeneration. All assets valued at purchase above £20,000 must be logged on the real asset management database maintained by the Core Accounting Team.

C.24. 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.25. Officers, in acquiring and disposing of assets, shall comply with the Council's Financial Procedures.

C.26. 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 adviser. For the purpose of these regulations the appropriately qualified officer or adviser is the Director of Regeneration and Asset Management 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 Director of Regeneration and Asset Management 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.27 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 (G12–25) where the disposal is a Key Decision.

C.28. Each Executive Director shall be responsible for keeping and maintaining full financial, staffing and other records necessary for the proper administration of their directorate's affairs. They shall supply such information and records to the Executive Director of Resources and Regeneration on request. All records shall be maintained for the periods specified by the Audit Commission.

C.29. Executive Directors shall not write off any land and building assets (except for the Executive Director for Resources and Regeneration who has delegated authority up to £500,000), or any non land or building assets above the financial value set by the Executive scheme of delegation (currently £20,000).

### **Income**

C.30. 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 through the Council's main financial information system.

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.31. The Executive Director for Resources & Regeneration is responsible for assessing the level of bad debt provision. Only the Executive Director for Resources and Regeneration and the Executive Director for Customer Services (in relation to housing rent debt) are permitted to write off individual debts against the directorate bad and doubtful debts provision within the limits of their delegated authority (see table of delegated write-off limits in the Directorate's Scheme of Delegation), after all reasonable steps have been taken to collect the debt. Debts in excess of these limits shall be reported to the Executive.

C.32. 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 three 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.33. Any Executive Director with delegated authority to write off debt will prepare a summary of debts written-off under delegated authority and submit this to the Executive Director for Resources & Regeneration on an annual basis.

### **Treasury management and leasing**

C.34. All treasury management and transactions, including investments and borrowings by the Council, shall only be undertaken as authorised by the Executive Director for Resources & Regeneration. Also, the Executive Director for Resources & Regeneration shall report these transactions to the Executive in accordance with the CIPFA Treasury Management Code of Practice. The Treasury Management Strategy approved by the Council specifies the parameters within which all treasury management dealings shall operate.

C.35. 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 & Regeneration. The registration of the Council's stocks, bonds and mortgages and the recording of all borrowing of money by the Council shall be carried out by the Executive Director for Resources & Regeneration or under such arrangements as the Executive Director for Resources & Regeneration may determine. All proposed leasing schemes should first be notified to the Executive Director for Resources & Regeneration' - Core Accounting Team, who shall appraise them and direct on necessary arrangements and arrange for the Executive Director for Resources & Regeneration to authorise them if necessary.

C.36. The Executive Director for Resources & Regeneration is responsible for reporting to the Executive quarterly, and to the Audit Panel bi-annually, 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.37. 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.38. 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 the 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.39. 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 & Regeneration.

C.40 The Council will approve an annual Pay Policy Statement as required under Section 38 Localism Act 2011 and payment shall be made in accordance with it.

### **Risk management and insurance**

C.41. 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.41. The Executive Director for Resources & Regeneration 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.43. The Executive Director for Resources & Regeneration is responsible for advising the Executive on proper insurance cover where appropriate and for effecting all insurance cover on behalf of the Council.

C.44. Executive Directors shall be responsible for identifying and effectively managing all significant risks within their directorates and for maintaining a register of all areas of significant risk within their directorates.

C.45. Executive Directors or their nominated representative shall notify the Executive Director for Resources & Regeneration or his/her nominated representative 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.46. The Executive Director for Resources & Regeneration 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.47. 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.48. 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 approved 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 a 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 a legal agreement with another party to do work or have work done, or provide supplies and services.

**consultant** means any individual or organisation appointed to deliver a specified project with specified deliverables and a timetable. The project should either be developmental and/or problem solving and/or diagnostic and/or re-engineering in nature.

**authorised client officer** means the employee authorised by the Executive Director to take responsibility for managing contracts on the directorate's behalf.

**budget virement** means the transfer of a budget from the purposes for which Council originally voted in setting the budget and Council Tax to another purpose.

**PART V**  
**ETHICS**

### **TERMS OF REFERENCE FOR STANDARDS COMMITTEE**

To deal with all matters relating to the ethical framework affecting members of the Council under Part I Chapter 7 Localism Act 2011 as amended and all other relevant legislation including regulations, directions and guidance. This shall include but not be limited to:-

- 1) The promotion of the highest standards of behaviour by members of the Council, including the Mayor, councillors, independent members and co-optees.
- 2) Advising the Council on the introduction and operation of the Member Code of Conduct, making recommendations for change as the Committee sees fit
- 3) Training all members in the operation of the Member Code of Conduct and ensuring that it is well publicised both within and outside the Council.
- 4) The introduction, implementation and maintenance of a procedure for dealing with allegations of breach of the Member Code of Conduct; including monitoring and review and amending it from time to time as the Committee sees fit.
- 5) Dealing with allegations of breach of the Member Code of Conduct, referred to them by the Monitoring Officer and the imposition of sanctions as appropriate in accordance with the law, the Council's Constitution and relevant procedures adopted by the Council.
- 6) Monitoring and review of the Council's whistleblowing procedures and cases referred to the whistleblowing officer under it, making recommendations to the Council as the Committee considers appropriate.
- 7) Consideration of applications for dispensation to allow members to participate in consideration of matters in which they would, but for a dispensation, not be able to participate, in circumstances permitted by law.
- 8) Annual monitoring and review of the Council's Code of Corporate Governance, including an assessment of the degree of compliance, submitting a report in this respect to full Council on an annual basis.
- 9) To adjudicate on any dispute relating to the payment of Members' Allowances or expenses under the Members' Allowances scheme in force from time to time.

- 10) To review the Council's use of the powers available to it under the Regulation of Investigatory Powers Act 2000.
- 11) All things necessary or in the opinion of the Committee appropriate to fulfill the role and remit of a Standards Committee as defined by law or the Council's constitution.

**Composition**

10 elected members of the Council and 6 co-opted members

**LONDON BOROUGH  
OF  
LEWISHAM**

**MEMBER CODE  
OF  
CONDUCT**

## LONDON BOROUGH OF LEWISHAM MEMBER CODE OF CONDUCT

### 1. Introduction

- 1.1 This Code sets out the principles and standards of behaviour for all members of the London Borough of Lewisham, both elected and co-opted members. It is designed to demonstrate the Council's commitment to the highest standards of ethical behaviour. Certain minimum requirements are set out in law and these are all included in this Code. However, the Council has put in place some elements of this Code by exercising its own local discretion to do so. Those elements which the Council has included under this discretionary power are contained within text boxes below.
- 1.2 For the avoidance of doubt, when the term "members" is used in this Code, or any appendices or protocols under it, it means the Mayor, elected and co-opted members, including non-elected members of the Health and Wellbeing Board.

### 2 Principles

- 2.1 Members are required to comply with the following principles in their capacity as a member:-

- SELFLESSNESS
  - INTEGRITY
  - OBJECTIVITY
  - ACCOUNTABILITY
  - OPENNESS
  - HONESTY
  - LEADERSHIP
- |   |
|---|
| <ul style="list-style-type: none"> <li>• INDEPENDENT JUDGEMENT</li> <li>• RESPECT</li> <li>• STEWARDSHIP</li> </ul> |
|---|

- 2.2 Accordingly the following requirements apply:-

- 1) Members must act solely in the public interest. They must never improperly confer an advantage or disadvantage on any person nor seek to do so. They must not act to gain financial or other benefit for themselves, their family, friends or close associates.
- 2) Members must not place themselves under a financial or other obligation to any individual or organisation that might seek to influence the performance of their duties as a member.

LBL requires that members must not act to place themselves in a position where their integrity might reasonably be questioned and should on all occasions avoid situations which may create the impression of improper behaviour

- 3) Members should make decisions on merit, including when awarding contracts, making appointments, or recommending individuals for rewards or benefits.
  - 4) Members are 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 office.
  - 5) Members should be as open as possible about their decisions and actions and those of the Council. They should be prepared to give reasons for those decisions and have regard to the advice of the Council's statutory officers before making any decision.
  - 6) Members must act to ensure Council resources are used prudently. When using or authorising the use by others of Council resources, members must ensure that they are used only for legitimate Council purposes and not for any other purpose. In particular they must not be used improperly for political purposes (including party political purposes). Members must have regard to any applicable Local Authority Code on Publicity under the Local Government Act 1986.
- 7) Members must take account of the views of others, including their political groups, but must reach their own conclusions and act in accordance with those conclusions.
  - 8) Members should promote equality and not discriminate unlawfully against any person, and treat all people with respect. Whilst it is acknowledged that political debate may at times be robust and forthright, and that the right of freedom of expression is essential to vibrant political discourse, members should ensure that their comments and behaviour do not overstep the line of acceptability. They should not bully any person. They should respect the impartiality and integrity of the Council's officers
- 9) Members should promote and support high standards of conduct in particular as characterised by the above requirements by leadership and example.

### **3 When does this Code apply?**

- 3.1 This Code applies at all times when members act in their capacity as member or claim to do so.

#### **4 Personal interests**

- 4.1 There are three categories of personal interest.

- Disclosable pecuniary interest
- Other registerable interest
- Non registerable interest

##### *Disclosable pecuniary interest*

- 4.2 The definition of disclosable pecuniary interest is set out in regulation. It is as follows:-

#### **1 Employment, office, trade, profession or vacation**

*Any employment, office, trade, profession or vocation carried on by a relevant person\* for profit or gain.*

#### **2 Sponsorship**

*Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 months prior to the date of giving notice of interest for inclusion in the register in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.*

*This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.*

#### **3 Contracts**

*Any contract which is made between a relevant person\* (or a firm in which they are a partner, or a body corporate in which they are a director or in the securities\*\* of which body corporate they have a beneficial interest) and the relevant authority—*

*(a) under which goods or services are to be provided or works are to be executed; and*

*(b) which has not been fully discharged.*

**4 Land**

*Any beneficial interest in land which is within the borough.*

**5 Licences**

*Any licence (alone or jointly with others) to occupy land in the borough for a month or longer.*

**6 Corporate tenancies**

*Any tenancy where (to the Member's knowledge)—*

- (a) the landlord is the Council; and*
- (b) the tenant is a body in which the relevant person\* is a firm in which they are a partner, or a body corporate in which they are a director or in the securities\*\* of which body corporate they have a beneficial interest.*

**7 Securities**

*Any beneficial interest in securities of a body where—*

- (a) that body (to the Member's knowledge) has a place of business or land in the borough; and*
- (b) either—*
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or*
  - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person\* has a beneficial interest exceeds one hundredth of the total issued share capital of that class.*

*\* For the purposes of this paragraph 4.2, a "relevant person" is:-*

- (i) the Member, their spouse, or civil partner;*
- (ii) a person with whom the member is living as husband and wife; or*
- (iii) a person with whom the member is living as if they were civil partners.*

*\*\* For the purposes of this paragraph 4.2, “securities” means shares, debentures, debenture stock, loan stock, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description other than money deposited with a building society*

- 4.3 Members must within 28 days of taking office as a member, notify the Monitoring Officer of any disclosable pecuniary interest where the pecuniary interest is the interest of themselves, their spouse or civil partner (or is the interest of someone with whom the member lives as spouse or civil partner) for inclusion in the Register of Members’ Interests.

*Other registerable interest*

- 4.4 Members must also within 28 days of taking office as a member, notify the Monitoring Officer of such further interests as LB Lewisham has decided should be included in the register

*Membership or position of control or management in:-*

- *Any body to which you were appointed or nominated by the Council*
- *Any body exercising functions of a public nature (described below) or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party*

*Any person from whom you have received a gift or hospitality with an estimated value of at least £25*

*There is no definitive list of bodies exercising functions of a public nature, but those bodies which:-*

- *carry out a public service, or*
- *take the place of local/central government (including through outsourcing); or*
- *carry out a function under legislation or in pursuit of a statutory power; or*
- *can be judicially reviewed,*

*are likely to be bodies carrying out functions of a public nature. They include bodies such as government agencies, other councils, health bodies, council owned companies, ALMOs, school governing bodies.*

- 4.5 LBL requires all members to ensure that their entries on the Register of Members’ Interests are kept up to date annually and that they notify the Monitoring Officer of any change to their interests within 28 days of the change arising

## 5. Declaration of interests

### *Disclosable pecuniary interest*

- 5.1 By law, Members with a disclosable pecuniary interest may not participate in any discussion of, vote on, or discharge any function relating to any matter in which the member has such an interest, unless a dispensation has been granted under Section 33 Localism Act 2011.

## 5. Declaration of Interests

### *Disclosable pecuniary interest*

- 5.1 By law, Members with a disclosable pecuniary interest may not participate in any discussion of, vote on, or discharge any function relating to any matter in which the member has such an interest, unless a dispensation has been granted under Section 33 Localism Act 2011.

- |  |
|--|
| 5.2 In Lewisham decisions relating to dispensation may only be taken by the Standards Committee which will decide each case on its merits. |
|--|

- 5.3 The law requires that if a member has a disclosable pecuniary interest which is not entered on the Register of Members' Interests, then the member must disclose the interest to any meeting of the Council at which they are present where they have a disclosable interest in any matter being considered at that meeting. However this shall not apply if the interest is a 'sensitive interest' (see para 5.4 below.) Following any such disclosure the law requires that members update their entry in the Register of Members' Interests within 28 days of the date of disclosure. In this context the law defines a meeting as a meeting of the Council, or any committee, sub-committee or joint committee of it.

- 5.4 A 'sensitive interest' is an interest the disclosure of which the member and Monitoring Officer have agreed could lead to the member or a person connected with them being subject to violence or intimidation

### *Other registerable interests*

- 5.5 Members must also comply with such other provisions as the Council may require in relation to declarations of interest. The provisions which the Council has decided to include in this Code in relation to the declaration of interests are set out in paragraphs 5.6 to 5.11 below.

- 5.6 LBL requires that whenever a member has a registerable interest (pecuniary or otherwise) in any matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not improperly seek to influence the decision in any way.
- 5.7 Where the member has a registerable interest which falls short of a disclosable pecuniary interest, the member must still declare the nature of that interest to the meeting at the earliest opportunity and in any event before the matter is considered, but unless paragraph 5.8 below applies, provided the member does so, they may stay in the room and participate in consideration of the matter and vote on it.
- 5.8 Where a member has an interest which under this Code would not be a disclosable pecuniary interest but would be registerable (and therefore would not generally by law prevent participation in consideration of a matter in which the member has that interest,) the member must consider whether a reasonable member of the public in possession of all the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- Non-registerable interests*
- 5.9 Occasions may arise where a matter under consideration would, or would be likely to, affect the wellbeing of the member, their family, friend or close associate(s) more than it would affect those in the local area generally, but which is not required to be included in the Register of Members' Interests (for example, a decision in relation to a school closure, where a member has a child at the school). In such matters, members must comply with paragraph 5 in its entirety as if the interest were a registerable one.
- 5.10 Decisions in relation to the declaration of interests are for the member's personal judgement. However members must consider not only whether they have an actual interest in a matter under discussion but should at all times seek to avoid the impression being created that their judgement of the public interest is or is likely to be impaired by their personal interests.
- 5.11 The provisions of this paragraph 5 apply not only to meetings but to circumstances where a member makes a decision alone.

## **6. ACCESS TO INFORMATION**

- 6.1 Members must not disclose confidential information given to them in the course of their duties without the consent of the person entitled to give it unless:-
- (a) there is a legal requirement to disclose the information, or
  - (b) the disclosure is to a third person for the purpose of obtaining professional advice and the third party agrees not to disclose it, or
  - (c) the disclosure is reasonable, in the public interest, made in good faith and made in accordance with the Council's reasonable requirements.
- 6.2 Conversely, members must not prevent access to information to which another is entitled by law.

## **7. GIFTS AND HOSPITALITY**

The Council maintains a Register of Gifts and Hospitality in which all members must register gifts and hospitality received from any party of £25 or over. Members must also register the identity of the party whom they believe to be the source of the hospitality or gift. Members must also record in this register any gift or hospitality offered to them but not accepted if it exceeds £25. This register will be publicly available on the Council's website.

## **8 PROTOCOLS**

From time to time, the Council may put in place protocols which clarify this Code of Conduct and will be used to interpret it. Members must comply with any such protocols in place from time to time. There are attached to this Code 5 such protocols:-

- (1) Member and Officer relations
- (2) Member Use of IT
- (3) Planning and Lobbying
- (4) Local Authority Code on Publicity
- (5) Guidance Code for Members on Outside Bodies

**9 UNDERTAKING TO COMPLY**

LBL requires that all members sign an undertaking within two months of being elected to abide by this Code of Conduct. Failure to do so will itself amount to a breach.

**10 SANCTIONS**

Members are reminded that breach of any of the statutory requirements relating to the registration and declaration of interests may result in prosecution. Breach of the provisions introduced locally by the Council will be dealt with in accordance with the Council's procedure for handling allegations of breach of this Code

*Members in need of advice about the application of this Code should contact the Head of Law and Monitoring Officer, Kath Nicholson on extension 47648*

# **APPENDIX 1**

## **MEMBER & OFFICER 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 members (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 member including a directly elected Mayor. Their job is to give advice to all members (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.

#### **'Members' roles**

4. Members 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, members may exercise only some of these roles. However it is not the role of members 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 members 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 members, all councillors and the Mayor 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 just 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 members 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. Members 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, the director of adult services, the director of public health & scrutiny officer have legal responsibilities over and above their obligations to the authority and members of it. Members 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 Members 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
- (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 members 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

Officers can expect from members:-

- (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
- (f) Not to be subject to bullying or to be put under pressure. Members must have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between members and officers and the potential vulnerability of officers, particularly at junior levels
- (g) That members 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
- (h) Compliance with the Member Code of Conduct at all times

### **Close personal relationships**

- 11 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 members 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 member or officer may secure advantageous treatment.

### **Political Groups**

- 12 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.
- 13 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"

- 14 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 Council applies a similar provision to those applying to JNC officers, without the exception contained in the last sentence.
- 15 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.
- 16 The principles set out in paragraph 15 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.
- 17 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.

### **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.
- 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 2.6, which states:
- “ 2.6. Members must act to ensure Council resources are used prudently. When using or authorising the use by others of Council resources, members must ensure that they are used only for legitimate Council purposes and not for any other purpose. In particular they must not be used improperly for political purposes (including party political purposes). Members must have regard to any applicable Local Authority Code on Publicity 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 Members are reminded that the Council's Protocol for recording Council meetings which is produced at Appendix 3 to this Constitution, applies to everyone attending an open meeting. For the sake of certainty, any

councillors wishing to record the proceedings of an open public Council committee or Council sub-committee are bound by the provisions of that Protocol.

- 1.5 The following paragraphs (1.6, 1.7, 1.8 and 1.9) are 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; Equality Act 2010, or other legislation in force from time to time;
    - (ii) breaches any of the general obligations set out in the Member Code of Conduct; or,
    - (iii) breaches the council's ICT security policies.
- 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.

**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:-

- 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 , and all other material considerations
- giving a clear recommendation
- carrying out the decisions of councillors in committee or sub-committee.

### **Lobbying**

5. There are two issues which may arise when a member has been lobbied. They are the issues of pre-determination and personal 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 predisposition 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. Whilst a predisposition to a particular point of view is acceptable, a pretermination is unacceptable. 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 categorical statements in advance about whether they support or oppose the proposal;
  - not pressurise officers to make a particular recommendation in their report;
  - direct lobbyists or objectors to planning officers, 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.

### **Interests**

10. Whether or not a Member may participate and vote on a planning matter depends on the nature of the interest that they hold. The situation may be summarised as follows:-

- (a) **Disclosable pecuniary interests**

- (i) Where a Member of the Planning Committee has a disclosable pecuniary interest then that Member cannot participate in any discussion or vote in respect of that matter at Planning Committee or otherwise. They must declare the interest and withdraw.
- (ii) Members who are not members of the Planning Committee are similarly bound by the provisions relating to disclosable pecuniary interests, and may not make any representations to the Committee on their own behalf or those of their constituents or others. They similarly must not attend during consideration of that item.

- (b) **Other registerable interests and non registerable interests**

If a Member of the Planning Committee has an interest, other than a disclosable pecuniary interest, in a matter which is under consideration by Planning Committee, which would either:-

- (i) constitute an interest that would need to be registered under the Council's Code of Conduct or

- (ii) which whilst not requiring registration would, but would be likely to affect the wellbeing of a member, their family, friend or close associate(s) more than it would affect those in the local area generally

then the Member should declare the interest but may stay and participate in the consideration of the matter and may vote unless the following paragraph (c) applies.

- (c) If the interest is such that a reasonable member of the public in possession of all the facts would think that the member's interest is so significant that it would be likely to impair their judgement of the public interest the member, should not participate in the decision making process and should withdraw.
  - (d) Members who are not members of the Planning Committee with such an interest may still attend to make representations to the Committee on their own behalf or on behalf of their constituents or others, provided a declaration of interest is recorded and as long as the Member leaves immediately after doing so.
11. Members with an interest that would preclude their attendance at a meeting during consideration of a matter, 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.

12. 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**

13. Members should note that breach of the requirements in relation to personal interest and for pre-determination may mean that the decision is rendered invalid if challenged in the courts.
14. 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
  - 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 forming 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.

### **The Party Whip**

15. 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**

16. 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.
17. 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**

18. 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.
19. 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.

### **Gifts and Hospitality**

20. 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 Members or Officers**

21. 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.

The Head of Planning will ensure that all such applications are determined at the appropriate committee meeting and not under any delegated powers.

### **Planning Applications by the Council**

22. 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**

23. 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**

24. Any issues or concerns arising from this protocol 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

### Introduction

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.
2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newsheets and maintenance of websites – including the hosting of material which is created by third parties.
3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

### Principles

4. Publicity by local authorities should:-
  - be lawful
  - be cost effective
  - be objective
  - be even-handed
  - be appropriate
  - have regard to equality and diversity
  - be issued with care during periods of heightened sensitivity

### **Lawfulness**

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority's Advertising Codes.
6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.
8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority. \*
9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.\*

### **Cost effectiveness**

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.
11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.
12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be

achieved if locally produced publicity gives a local context to national issues.

13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.
14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

### **Objectivity**

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.
16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local 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. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.
17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.
18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

### **Even-handedness**

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.

20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the “face” of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.
21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.
22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.
23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.
24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.
25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

### **Appropriate use of publicity**

26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.

27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.
28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newssheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.
29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.
30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newssheets or similar publications published by the local authority, should do this on the front page of the publication.

### **Equality and diversity etc**

31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

### **Care during periods of heightened sensitivity**

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or

report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

\* London Borough Lewisham N.B.

Since publication of this statutory guidance, the regulations referred to in this document have been updated as follows

- Para 8 The current regulations are the Local Authorities (Conduct of Referendums) (England) Regulations 2012 as follows.
- Para 9 The current regulations are the Local Authorities (Referendums) (Petitions) England Regulations 2011.

**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. This has implications for the members appointed.
  - 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 Lewisham Member Code of Conduct
    - 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 is best met by an annual report to the Mayor and Cabinet and/or relevant committee with an opportunity for questions, and an item on agendas allowing questions by prior notice. While the law now makes this a requirement for involvement in outside companies, it is self-evident that facilities for report back should apply to involvement in all outside bodies.
  5. Members will appreciate that the guide and also the Lewisham Member Code of Conduct addresses 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 certain specific dispensations in the Lewisham Member Code of 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 advice of the Chief Executive or the Head of Law.
  7. Ultimately, it is possible that the member may find he/she is 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 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 treads 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 the most serious circumstances the only proper way for the conflict to be resolved may be 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 the Mayor and 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 those which 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 one of a number of business relationships being satisfied. Perhaps the most significant are (broadly) where the company derives over 50% of its turnover from the Council, or the company is 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 concepts in the 1989 Act still stand, but the Order introduces the term “regulated”.

- (4) Members 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. LIMITED LIABILITY PARTNERSHIPS (LLPs)

- 3.1 LLPs are a form of vehicle that gives the benefits of limited liability but allows its members the flexibility of a traditional partnership. The LLP is a separate legal entity and, while the LLP itself will be liable for the full extent of its assets, the liability of the members will be limited.

3.2 It would be extremely unusual for members to be appointed by the Council to a limited liability partnership and members should take advice on the implications from the head of law before doing so.

3.3 LLPs are not available to charities.

#### 4. CHARITIES

4.1 To be a charity an organisation must operate for a charitable purpose. These are defined in the Charities Act 2011 and include:-

- (a) the prevention or relief of poverty;
- (b) the advancement of education;
- (c) the advancement of religion;
- (d) the advancement of health or the saving of lives;
- (e) the advancement of citizenship or community development;
- (f) the advancement of the arts, culture, heritage or science;
- (g) the advancement of amateur sport;
- (h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- (i) the advancement of environmental protection or improvement;
- (j) the relief of those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage;
- (k) the advancement of animal welfare;
- (l) the promotion of the efficiency of the armed forces of the Crown or of the efficiency of the police, fire and rescue services or ambulance services;
- (m) any other purpose recognised as or analogous to charitable purposes.

4.2 The Charity Commissioners may also grant charitable status to an organisation set up for an analogous purpose. 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.

4.3 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.

4.5 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.

4.6 Trustees' Duties

4.7 Charitable trustees owe duties of compliance, prudence and care. They are as follows:-

4.8 Compliance

- To ensure that the charity complies with legal requirements and those of the Charity Commissioners, and that the charity submits annual reports and accounts
- To ensure that the charity acts within the terms of its governing document
- To act with integrity, avoiding personal conflict of interest

4.9 Prudence

- To ensure that the charity is and will remain solvent.
- To use charitable funds and assets reasonably, and only in furtherance of the charity's objects.
- To avoid undertaking activities that might place the charity's endowment, funds, assets or reputation at undue risk.
- To take special care when investing the funds of the charity, or borrowing funds for the charity to us

4.10 Care

- To use reasonable care and skill in their work as trustees
- To take external professional advice on all matters where there may be material risk to the charity, or where the trustees may be in breach of their duties.

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.

4.11 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.

#### 4.12 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.

### 5. COMMITTEES OF MANAGEMENT

#### 5.1 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.

5.2 Property will have to be held by individuals as the organisation has no existence of its own.

#### 5.3 Duties

Broadly, Management Committee members must act within the constitution, and must take reasonable care in exercising their powers.

#### 5.4. 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.

#### 5.5 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.

## 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, Members, partners and the Council's Standards Committee. It is designed to promote public confidence in the actions of employees and Members 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 Policy. If in any doubt employees should seek advice from their line manager or from HR.

### 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. An employee must perform his/her duties with honesty, integrity, impartiality and objectivity.

**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 Council and 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 age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

**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. An employee must

- (a) use any public funds entrusted to or handled by him/her in a responsible and lawful manner; and
- (b) not make personal use of property or facilities of the Council unless properly authorised to do so.

**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/ her and to comply with the law and this Code of Conduct.

Employees are required to comply with all the Council's policies and procedures as amended from time to time.

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 age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

All forms of discrimination, including bullying and harassment are unacceptable and contravene the Council's Respect and Dignity at Work Policy. Any breach of this policy will be treated seriously and will be dealt with under the Council's Disciplinary Policy.

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 requires 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 HR Advisory Service.

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, including 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 they hold a politically restricted post or whether any activity is political activity and covered by these rules then advice should be sought from their Executive Director or 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 deliver 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.

Employees must have due regard to the Protocol on Member & Officer Relations.

### **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 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/her official or personal capacity –

- a) allow his/her personal interests to conflict with the authority's requirements; or
- b) use his/her 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 graded at SMG1 and above must register any financial interests in the authority's register. Other employees below SMG1 who hold positions which are considered by the Chief Executive or the Council's Monitoring Officer to be particularly at risk, such as commissioning, procurement and contract monitoring officers will also be required to register their financial interests. Employees must register their financial interest or subsequent changes by writing to the Council's Monitoring Officer within 28 days of their appointment or change in their personal position 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).

### **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 (relevant Head of Service).

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 Policy 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 Acceptable Use of ICT Policy and associated guides at all times. Failure to follow the Acceptable Use of ICT Policy will lead to disciplinary action under the Council's Disciplinary Policy.

## **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 Policy.

### **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 which can be found on the Council's intranet (Working for Lewisham), and must ensure that any hospitality received is entered in the Hospitality Register maintained by their directorate Executive Support 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 are embedded in 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 and a Bribery Policy, which will be made widely available, and will report on referrals under those policies 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 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 (2012)***

Chief Executive  
September 2012



**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**
  - **telephone provision**

**MEMBERS ARE ADVISED THAT FROM MAY 2010 THE COUNCIL'S STANDARDS COMMITTEE HAS REQUIRED FULL DISCLOSURE OF ALL PAYMENTS MADE AND EXPENSES CLAIMED ON THE COUNCIL'S WEBSITE.**

**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 27 September 2012 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 27 September 2012 to 31 March 2013 this allowance is £9,812 per annum. In accordance with the decision of the Council on 30 June 2010 all allowances were frozen at their 2008/09 levels until further notice.

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.** All claim forms will be published on the website.

### 8.1 **Day Subsistence**

Where members are required to travel on Council business outside the Greater London area, and meals are not provided, then subsistence allowances may be claimed as follows:

Lunch maximum £7

Evening Meal maximum £10

Reimbursement of the cost of an evening meal will be made only where the business meeting extends beyond 8.30 p.m.

Where members are required to stay overnight and meals are not provided with the accommodation, up to £30 may be claimed to cover the cost of all meals.

Where employees are required to visit abroad on Council business and meals are not provided with the accommodation, up to £50 may be claimed per day to cover the cost of all meals and taxi fares etc.

When claiming subsistence allowances receipts for expenditure must be presented.

## 8.2 **Overnight Subsistence**

The costs of Meetings or Conferences requiring members to be absent overnight from home will either be met directly by the authority or reimbursed upon submission of a valid claim and actual receipts. The costs to the authority of all Conferences or overnight stays will be published on the website and attributed to the Members concerned.

## 9. **Travel Allowance**

The Council has agreed that a flat rate mileage equivalent to the casual user rate paid to officers, will be paid when members use their private car for those 'approved duties' set out in Schedule 2 if the duty takes place outside the Borough of Lewisham.

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. All claim forms received may be reproduced on the Council's website.**

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.

The Council cannot provide official transport for members unless they are on civic business authorised by the Head of Business and Committee or the Business and Civic Manager, 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) care arranged by members on an 'ad-hoc' basis at the prevailing hourly rate of the London Living Wage £8.80 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 can be supplied with a broadband line, which includes a voice phone line which can be used exclusively for enquiries by constituents and for Council business. If this is the case the cost of this computer and phone line will be paid in full by the Council. If you already have a broadband line this can also be used for Council work.

However, if you do not wish to take advantage of this proposal, 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.

Where mobile telephones or similar devices are allotted to Members, any non Council usage must be identified and the Council reimbursed.

12. **National Insurance Contributions/Statutory Record and Statutory Sick Pay (SSP)**

The lower earnings limit in 2014/15 is £481 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.

13. **Tax and Benefits**

A guide to the latest rules on Social Security Benefits and Tax Credits as they relate to Councillors, which has been produced by the Local Government Information Unit, is held by the Head of Business & Committee in the Civic Suite, extension 49327. It explains which

allowances are taxable and how being a councillor can affect the benefits which you or your partner claim.

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.

Additionally all expenses claim forms submitted by Members as well as details of costs incurred directly by the authority on behalf of Members, will be published on the Council's website.

17. **Local Government Pension Scheme**

Prior to May 2014, all members of the Council under the age of 75 years were entitled to admission to the Local Government Pension Scheme without any qualifying period, and both basic and special responsibility allowances were counted as pensionable pay.

Lewisham Town Hall  
Catford  
SE6 4RU  
September 2012

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	77,722
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 Strategic Planning Committee	6,130
Chair of Licensing Committees	6,130
Leaders of Political Groups or Chair of the Labour Group if 15 or more members	5,275
Leaders of Political Groups or Chair of the Labour Group if less than 15 members	3,165
Chair of the Standards Committee	1,000
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	600



**SCHEDULE 2****APPROVED DUTIES**

The activities set out are 'approved duty' for the purposes of payment of travel and subsistence allowances when meetings take place outside the Borough of Lewisham.

Ackroyd Community Centre Management Committee

Adoption and Permanency Panel

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

Catford Regeneration Partnership Board

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

Deptford Challenge Trust  
Dressington Day Centre  
Elections Committee  
EqualiTeam Lewisham  
Forest Hill and Sydenham Voluntary Service Association  
Greater London Enterprise  
Greater London Provincial Council  
Green Chain Joint Committee  
Groundwork London  
Groundwork Local Authority Strategic Input Board  
Healthier Communities Select Committee  
Health and Safety Committee  
Housing Joint Partnership Board  
Housing Select Committee (time limited)  
Investment Sub-Committee  
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 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 Assemblies

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

Reserve Forces and Cadets Association

SACRE

Safer & Stronger Communities Select Committee

Shadow Health and Well Being Board

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 Members may claim for taxi fares only when returning from late night meetings where public transport is not available, and where appropriate by members with a relevant disability. In the case of dispute, the Standards Committee should be asked to arbitrate.
- 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 Business & Committee 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, motor cycle and bicycle are:-

#### 4.1 Motor Cycles

- |     |   |       |
|-----|---|-------|
| (a) | Per mile first 8,500                    | 31p   |
| (b) | Per mile after 8,500                    | 13.7p |
| (c) | Per mile after 8,500 (1000cc and above) | 14.4p |

(Note: the cc is shown in the Vehicle Licensing Document)

#### 4.2 Motor Cars

Up to 999cc first 8,500 miles	46.9p per mile
Up to 999cc after 8,500 miles	13.7p per mile
1000cc and above first 8,500 miles	52.2p per mile
1000cc and above after 8,500 miles	14.4p per mile

#### 4.3 Bicycles

14p per mile

#### 4.4 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.

#### 4.5 Tolls, Ferries or Parking Fees

The actual cost may be paid.

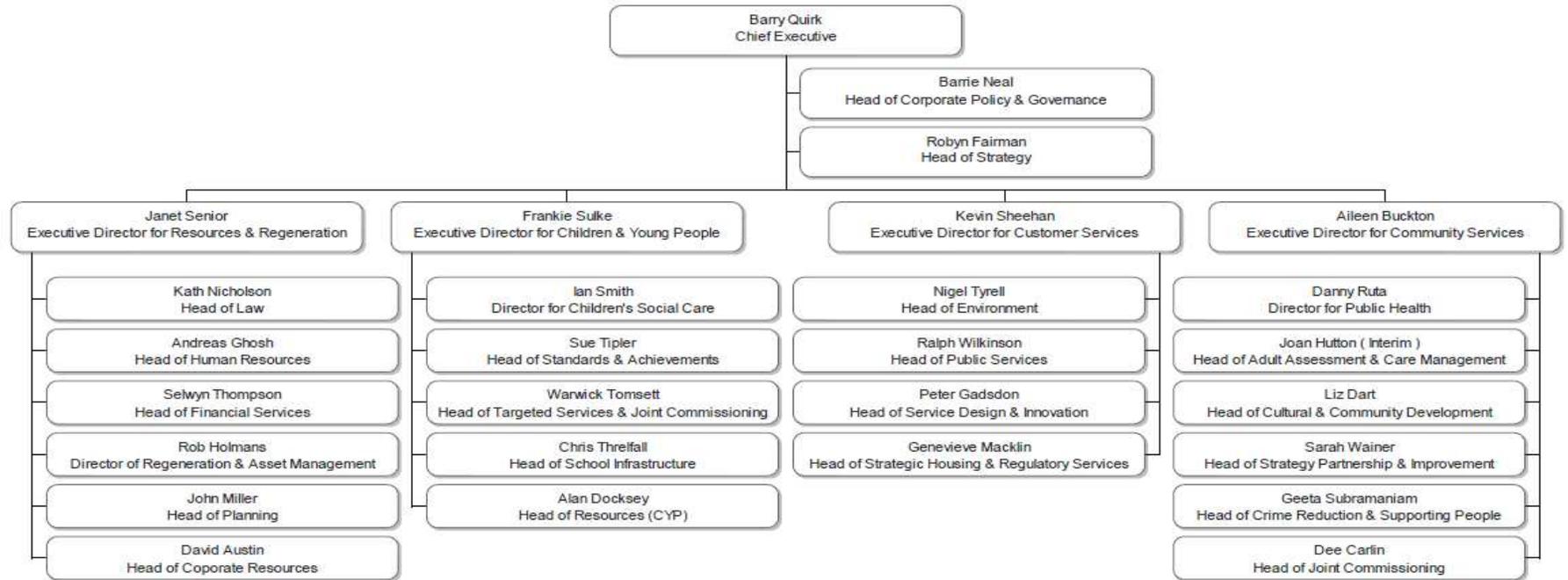


## **PART VII**

# **COUNCIL STRUCTURE CHART**

**As at 1 July 2014**

Top Tier Management



## **PART VIII**

# **SCHEMES OF DELEGATION**

**COUNCIL  
SCHEME  
OF DELEGATION**

**(A) COUNCIL SCHEME OF DELEGATION****Schedule of Delegation to Officers in Relation to Non-executive Planning and Highways Matters****Delegated Functions:**

To the Executive Director for Resources and Regeneration and 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 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)**

- Ancient Monuments & Archaeological Areas Act 1979
- Anti-Social Behaviour Act 2003, Part 8
- Building Act 1984,
- Caravan Sites and Control of Development Act 1960
- Countryside and Rights of Way Act 2000
- Cycle Tracks Act 1984,
- Environment Act 1995
- Environmental Protection Act 1990,
- Greater London Authority Act 1999,
- Highways Act 1980,
- Local Government (Miscellaneous Provisions) Act 1976,
- Local Government Planning and Land Act 1980,
- Local Land Charges Act 1975,
- London Building Acts 1930 to 1978,
- New Roads and Street Works Act 1991
- Noise and Statutory Nuisance Act 1993,
- Planning & Compensation Act 1991,
- Planning and Compulsory Purchase Act 2004
- Planning (Consequential Provisions) Act 1990,
- Planning (Hazardous Substances) Act 1990
- Planning (Listed Buildings & Conservation Areas) Act 1990,
- Road Traffic Acts 1972, 1988 and 1991,
- Road Traffic Regulation Act 1984,
- Road Traffic Regulation (Special Events) Act 1994,
- Road Traffic (Temporary Restrictions) Act 1991,
- Town & Country Planning Act 1990,
- Transport Act 2000,
- Transport and Works Act 1992,
- Wildlife and Countryside 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. There is one or more objections from a member of the Council.
- 4 the application is for development which is not in accordance with the approved development plan documents or other approved planning policies or
- 5 in the opinion of the Council's Head of Planning the matter would be more appropriately dealt with by the relevant committee.
- 6 Consideration of all town and country planning matters relating to the demolition of any building that is in use as a public house, or which is currently unoccupied but was in use as a public house immediately prior to becoming unoccupied.

All decisions relating to neighbourhood planning under Part 6 Localism Act 2011 in so far as they are non-executive functions and not reserved to full Council unless specifically delegated to officers by the strategic planning committee.

## **Schedule of Delegation to Officers in Relation to Non-executive Building Control Matters**

### **Delegated Functions:**

To the Executive Director for Resources and Regeneration and 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):

- Building Act 1984,
- Countryside and Rights of Way Act 2000
- Environment Act 1995,
- Greater London Authority Act 1999,
- Noise and Statutory Nuisance Act 1993,
- Local Government Planning and Land Act 1980,
- Local Government (Miscellaneous Provisions) Act 1976
- London Building Acts 1930 to 1978,
- Wildlife and Countryside 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**

Building control matters where:

1. there is one or more objection from a recognised residents' association or community/amenity group; or
2. in the opinion of the Executive Director for Resources and Regeneration the matter would be more appropriately dealt with by the relevant committee.

## Schedule of Delegation to Officers by Licensing Committee

### Delegated Function

To the Executive Director for Community 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:

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Application for Personal Licence	Any matter which the Head of Crime Reduction & Supporting People 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	Any matter which the Head of Crime Reduction & Supporting People considers to be more appropriate for consideration by the main Committee	All cases	
Application for Premises Licence / Club Premises Certificate	As above	If a relevant representation made	If no relevant representation made
Application for Provisional Statement	As above	If a relevant representation made	If no relevant representation made
Application to vary Premises Licence / Club Premises Certificate	Any matter which the Head of Crime Reduction & Supporting People considers to be more appropriate for consideration by the main Committee	If a relevant representation made	If no relevant representation made
Application to vary Designated	As above	If a police objection	All other cases

Premises Supervisor			
Request to be removed as Designated Premises Supervisor	Any matter which the Head of Crime Reduction & Supporting People considers to be more appropriate for consideration by the main Committee		All cases
Application for transfer of Premises Licence	As above	If a police objection	All other cases
Application for Interim Authorities	As above	If a police objection	All other cases
Application to review Premises Licence / Club Premises Certificate	Any matter which the Head of Crime Reduction & Supporting People considers to be more appropriate for consideration by the main Committee	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc	As above		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	As above	All cases	
Determination of a police objection to a Temporary Event Notice	Any matter which the Head of Crime Reduction & Supporting People considers to be	All cases	

	more appropriate for consideration by the main Committee		
--	--	--	--

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  
From Licensing (Supplementary) Committee**

**Delegated Function**

- 1 To the Executive Director for Community Services and 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 and 1991
- Breeding and Sale of Dogs (Welfare) Act 1999
- Caravan Site and Control of Development Act 1960
- 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
- Explosives Act 1875
- Food Safety Act 1990
- Game Act 1831
- Game Licences Act 1860
- Gaming Act 1968
- Greater London (General Powers) Act 1976
- Highways Act 1980
- 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

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 Community Services 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 in relation to the functions of the Elections Committee

### Delegated Functions

To the Chief Executive, and such officers as he/she may nominate, authority to deal with all arrangements in connection with Electoral Registration and the conduct of 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 and those matters which are reserved to full Council by law, or are functions exercisable only by the Returning Officer and/or Electoral Registration Officer. 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

- Act of Settlement 1700 (s.3)
- Banking and Financial Dealings Act 1971 (ss.1,5 and Sch.1)
- Boundary Commissions Act 1992
- Constitutional Reform and Governance Act 2010
- Criminal Justice Act 1982 (s.37)
- Defamation Act 1952 (s.10)
- Electoral Administration Act 2006
- European Community (Amendment) Act 1986
- European Parliamentary Elections Act 2002
- Fixed-term Parliaments Act 2011
- Forfeiture Act 1870 (s.2)
- Forgery and Counterfeiting Act 1981 (Extracts)
- House of Commons (Clergy Disqualification) Act 1801
- House of Commons Disqualification Act 1975
- Local Government Act 1972 (Extracts)
- Local Government and Housing Act 1989

- Local Government and Public Involvement in Health Act 2007
- Magistrates' Courts Act 1989 (s.32)
- Parliament (Qualification of Women) Act 1918
- Parliamentary Constituencies Act 1986
- Parliamentary Elections Act 1695 (s.7)
- Parliamentary Voting System and Constituencies Act 2011
- Police Reform and Social Responsibility Act 2011
- Political Parties and Elections Act 2009
- Political Parties Elections & Referendums Act 2000
- Public Bodies Corrupt Practices Act 1889 (ss. 1,2,7-9)
- Recess Elections Act 1975
- Representation of the People (England and Wales) Regulations 2001
- Representation of the People Act 1981
- Representation of the People Act 1983
- Representation of the People Act 1985
- Representation of the People Act 1989
- Representation of the People Act 2000
- Representation of the People Regulations 1986
- Roman Catholic Relief Act 1829 (s.9)
- Trade Union Act 1913 (ss.2,3,6,6A,7)
- Welsh Church Act 1914 (s.2(4))
- And all other relevant legislation in place from time to time.

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 and Regeneration 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 and such officers as he/she may nominate 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 and 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.

## **Directorate Schemes of Delegation**

The extent to which non-executive decision making powers are delegated to officers below Executive Director level appear at page 366 (DIRECTORATE SCHEMES)

These directorate schemes may be amended from time to time.

# **THE MAYORAL SCHEME OF DELEGATION**

**(B) 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 10 people, namely the Mayor and 9 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 Chris Best	52 Bishopsthorpe Rd Sydenham London SE26 4NY	Sydenham	Health, Well-Being & Older People
Councillor Kevin Bonavia	28 The Squirrels, Belmont Hill, London, SE13 5DR	Blackheath	Resources
Councillor Janet Daby	86 Killearn Road Catford SE6 1BT	Whitefoot	Community Safety
Councillor Joe Dromey	227B New Cross Road, London, SE14 5UH	New Cross	Policy & Performance
Councillor Damien Egan	38 Elthruda Road Hither Green, SE13 6SR	Lewisham Central	Housing
Councillor Paul Maslin	39 Aislibie Road	New Cross	Children & Young

	London SE12 8QH		People
Councillor Joan Millbank	14A Wallbuton Road London SE4 2NX	Telegraph Hill	Third Sector & Community
Councillor Rachel Onikosi	95 Knapmill Road, Catford, London, SE6 3TE	Sydenham	Public Realm
Councillor Alan Smith	30 Brightfield Road, SE12 8QF	Catford South	Regeneration

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, usually 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 10 or 11 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012.
  - 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 2012. 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, and/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"> <li>• Children and Young People’s Plan</li> <li>• Sustainable Community Strategy</li> <li>• Crime and Disorder Reduction Strategy</li> <li>• Youth Justice Plan</li> <li>• Local Development Documents</li> <li>• Transport Local Implementation Plan</li> <li>• Housing Strategy</li> <li>• Food Law Enforcement Service Plan</li> <li>• Licensing Statement (Alcohol and entertainment and Gambling)</li> </ul>
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 any 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 member (or a person, company or organisation with which the member 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, any body or panel appointed by the Executive, and any appeal or representation panel
14. All decisions relating to the determination of public realm works with a value in excess of £100,000 and the award of any contract relating to the same is reserved to the Mayor and Cabinet (Contracts).

## 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.

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
  - 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, Education Act 1997, School Standards and Framework Act 1998, Education Act 2002, Children Act 2004, Education Act 2005, Education and Inspections Act 2006, Education and Skills Act 2008, Apprenticeships, Skills, Children and Learning Act 2009, Academies Act 2010, Education Act 2011 and the Children and Families Act 2014 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.	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.
7.	Decisions relating to the setting or amendment of permissible eligibility criteria for children's services, whether social services or otherwise, and charges in respect of those services
8.	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
9.	Decisions relating to the publication of any statutory notice in relation to schools or other educational units
10.	Directions as to the occupation and use of school premises
11.	Matters relating to the schools admissions policy including admissions criteria.

12.	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
13.	Decisions relating to the instruments of government of any school
14.	Appointment of LA governors and LA appointments to outside bodies save where such appointments are reserved to Council in accordance with the law or the Constitution.
15.	Decisions relating to the Council's charging and remissions policy under Section 457 Education Act 1996
16.	Decisions relating to the Council's scheme for Financing of Maintained Schools.
17.	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.
18.	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 Executive 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:-

- Administration of the Supporting People Grant
- Adult social work
- Domiciliary care
- Family placements for adults,
- Funerals under the National Assistance Act 1948
- Home care

- Hospital social workers
  - Joint care planning, liaison and management with health organisations and other external bodies
  - Residential and day care for adults
  - Respite care for adults
  - Services for elderly people
  - Services for people with learning disabilities, mental health problems and/or learning disabilities
  - Youth offending services
- (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, management of parks and open spaces, allotments and any other such facilities.
- (d) Any and all executive regulatory functions, including those relating to licensing, gambling, trading standards, noise, consumer protection, food safety and environmental protection.
- (e) All executive decisions relating to the internal management of these functions which are not otherwise reserved to members.
- (f) All executive functions in relation to community engagement and support including the enhancement of citizen participation at a neighbourhood level.
- (g) The delegation to the Executive Director Community Services does not include the matters listed in Table 3 below.

**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.	The receipt and consideration of reports from any external body into the performance of the Council or the conduct of particular cases
7.	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
8.	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
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 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.
11.	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, 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 and Regeneration),
    - 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 in relation to the Council's use of information technology
  - (iv) registration of births, deaths and marriages
  - (v) responsibility for the corporate emergency planning and business continuity functions
  - (vi) all executive functions relating to housing strategy and development, housing need and homelessness including private sector housing, environmental health in private sector leasing, housing partnerships and environmental health (housing).

- (vii) the environment function, which shall include, but not be limited to all environmental matters, including:-
- the maintenance of parks and community facilities
  - 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) All matters relating to parking control, including but not limited to the collection of parking charges, parking regulation and enforcement.
- (x) Passenger Transport.
- (b) Delegation to the Executive Director Customer Services does not include the executive matters listed in Table 4 below, which are reserved to Members

**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 1 of Table 1 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. Decisions relating to the establishment, amendment or abolition of controlled parking zones.
9. All of those matters listed in Table 1.

## M EXECUTIVE DIRECTOR RESOURCES AND REGENERATION

Unless the law, the Constitution, or this Scheme of Delegation require otherwise, the following executive powers are delegated to the Executive Director for Resources and Regeneration:-

- (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 and Regeneration.
  - 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 and Regeneration 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.
  - 10) **Bad debt** The approval of the write off of bad debt in accordance with Paragraph S of this Scheme of Delegation.
  - 11) **Employment & Training** The encouragement and development of employment and training opportunities and facilities.
  - 12) **Urban Regeneration Initiatives** The management and implementation of all urban regeneration initiatives including housing regeneration schemes which have been approved by the executive including management of the capital programmes and resources ensuring effective financial control of resources and the achievement of value for money.
  - 13) **External Funding** 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.
  - 14) **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).
  - 15) **All Executive functions** in relation to building control.
  - 16) **All Executive functions** in relation to information to security and information governance.
- (b) Delegation to the Executive Director for Resources and Regeneration does not include the executive matters listed in Table 5 below

**TABLE 5  
EXECUTIVE MATTERS RESERVED TO MEMBERS  
RESOURCES AND REGENERATION**

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 – Subject to decisions relating to the tendering, award and variation of contracts relating to public realm works of a value in excess of £100,000 which are reserved to the Mayor and Cabinet (Contracts) Committee, 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 and Regeneration 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. 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 1.
12. 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
13. Decisions relating to increases in charges for services exceeding the rate of inflation.
14. Decisions relating to neighbourhood planning under Localism Act 2011 in so far as they are executive functions and not specifically delegated by the Mayor.
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 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 Regeneration 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 for Resources and Regeneration 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 6 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 6**

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 DS1 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 DIRECTOR OF PUBLIC HEALTH**

Unless the law, the Constitution, or this Scheme of Delegation requires otherwise, executive powers relating to the Council's public health functions are delegated to the Director of Public Health, save to the extent that they are specifically excluded below, or from time to time.

**TABLE 7  
EXECUTIVE MATTERS RESERVED TO MEMBERS  
PUBLIC HEALTH**

1. Consideration of the annual report of the Director of Public Health.
2. All those matters listed in Table 1.

**Q 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 .

**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.

### R CONTRACTS

- (1) The extent to which the letting of contracts (other than those relating to property which are set out at Section S below) is delegated to officers in relation to executive functions is set out below:-
- decisions relating to the tendering, award and variation of contracts relating to public realm works of a value not exceeding £100,000 shall be taken by the appropriate Executive Director or his/her nominee;
  - 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.

## S PROPERTY

Unless the law, the Constitution, or this Scheme of Delegation require otherwise, the following executive powers are delegated to the Executive Director for Resources and Regeneration 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 and Regeneration 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 Resources and 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 Resources and Regeneration 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 Resources and 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 by the Executive Director for Resources 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
  - 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 and Regeneration 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 Resources and Regeneration 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.

#### T 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 and Regeneration 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 Customer Services and the Executive Director for Resources and Regeneration 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.

#### U 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 Executive Director for Resources and Regeneration, and to other relevant Executive Directors with the approval of the Executive Director for Resources and Regeneration.
- (2) Decisions relating to virements of £500,000 up to £1 million are reserved to members.

#### V 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 and Regeneration and/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.

**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 and Regeneration. 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 and/or such persons 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 DIRECTORATE SCHEMES OF DELEGATION**

The extent to which the power to make executive decisions is delegated to officers below Executive Director are set out at (C) Directorate Schemes of Delegation, which schemes may be amended from time to time.

**AA 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 Onikosi
- b) Joint Section 101 Committee with the London Borough of Croydon on Street Lighting – Councillors Maslin and Smith
- c) London Councils Committee and Panels

<b>Committee/Panel</b>	<b>Membership</b>	<b>Appointee</b>
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 Smith
Greater London Employment Forum	Boroughs nominate directly (usually lead member for transport and/or environmental issues). One voting member and up to four named deputies	Councillor Maslin Deputy Councillor Dromey
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 Smith Deputy: Councillor Onikosi
Grants Committee)	Boroughs nominate directly one voting member and up to four named deputies	Councillor Millbank Deputy: Councillor Best

Those members appointed may represent the Council within the terms of reference of the relevant Committee/Panel.

#### BB HEALTH AND SAFETY AT WORK

Executive decisions relating to Health & Safety at Work in relation to the Council's role as employer are delegated to the Chief Executive and/or such officer as he may nominate.

#### CC ASSETS OF COMMUNITY VALUE (as defined in Part 5, Chapter 3 Localism Act 2011)

Executive decisions are to be made in accordance with the attached Community Right to Bid Guidance for officers, (as may be amended from time to time by the Chief Executive). References in that Guidance to 'designated heads of service and to an executive director' will be to the head of service and/or executive director nominated by the Chief Executive in any particular case.

#### DD COMMUNITY RIGHT TO CHALLENGE

Executive decisions are to be made in accordance with the attached Guidance Note – Community Right to Challenge (as may be amended from time to time).

# **Community Right to Bid Guidance for Officers**

## **1. Introduction**

The Community Right to Bid is a statutory right given to community and voluntary bodies to nominate assets of community value. The right also enables eligible community organisations to bid for the assets when they come up for sale. This

note provides guidance to officers about how the Council will handle this statutory right.

## 2. Scope of responsibilities

The framework within which asset nominations are to be managed is provided for in regulations. The Council's responsibilities extend to:

- Making decisions on asset nominations
- Maintaining and publicising two lists; one for successful nominations and the other for unsuccessful nominations
- Ensuring that reviews are conducted fairly and in timely manner
- Maintaining audit trails of evidence used to inform decision making
- Making decisions on compensation claims

A decision making process has been developed which describes how the above-mentioned functions will be managed within the framework. This appears at Appendix A, whilst a flowchart illustrating the bidding process is at Appendix B.

Key stages	Note
<b>Processing applications</b>	
1. On receipt of an application to nominate an asset of community value, <b>the list administrator (acting on behalf of the Principal Property Lawyer) must notify the designated Head of Service (generally the Head of Community and Neighbourhood Development)</b> that an application has been submitted and requires a decision.	A dedicated email account: 'community assets' has been set up to receive nominations for assets of community value.  A number of officers from across the Council have direct access to the 'community assets' email account. Collectively this group will ensure that there will always be an officer available to identify and process new applications as they arrive.  In order to ensure that the land/ asset owner is given notification that their asset is being considered for nomination, Land Registry searches and other enquiries may need to be made in order to establish ownership and occupancy.
2. <b>The list administrator must then forward details</b> of the application to the designated Head of Service for consideration and advise <b>the Principal Property Lawyer who must provide written notification</b> to the owner and lawful occupant of the land, that their property has been nominated.	
<b>Making an initial decision</b>	
3. <b>On receipt of the application</b>	Only a voluntary or community body with

<p><b>the designated Head of Service must consider the application and make an initial decision.</b> Specifically, the designated Head of Service will need to determine:</p> <ul style="list-style-type: none"> <li>• whether the application is <b>made by an eligible organisation</b></li> <li>• whether the application <b>meets the definition</b> of an 'asset of community value'.</li> </ul> <p>4. If additional information is <b>required the designated Head of Service may (at their discretion) contact the nominating organisation</b> and ask for this to be supplied.</p> <p>5. <b>The designated Head of Service must reach a decision</b> as to whether or not to list the asset within <u>8 weeks</u> of receiving the nomination.</p> <p>6. <b>Once the designated Head of Service has reached a decision they must advise</b> the Principal Property Lawyer of that decision.</p> <p>7. <b>The designated Head of Service must then write to the nominating organisation and the property owner</b> to advise them of the decision. In the event that a nomination has been unsuccessful, the letter must include reasons for the decision not to list the asset.</p> <p>8. <b>The designated Head of Service must</b> maintain an audit trail of the evidence that informed their decision and <b>forward this</b></p>	<p>local connection is eligible to make a community nomination. The regulations identify the following organisations as those able to nominate an asset of community value:</p> <ul style="list-style-type: none"> <li>• a charity</li> <li>• an unincorporated body whose members include at least 21 individuals and which does not distribute any surplus it makes to its members</li> <li>• a body designated as a neighbourhood forum</li> <li>• a company limited by guarantee which does not distribute any surplus it makes to its members</li> <li>• an industrial and provident society which does not distribute any surplus it makes to its members</li> <li>• a community interest company</li> </ul> <p>The legislation provides that an asset satisfies the definition of an asset of community value if:</p> <ul style="list-style-type: none"> <li>• the local authority decides that the actual main, current use of the building or land is to further the social wellbeing or social interests of the local community and it is realistic to think that there can continue to be a main use of the building or land which will further the social wellbeing or social interests of the local community; or</li> <li>• in the opinion of the local authority there is a time in the recent past when the actual and main use of the building or land furthered the social well being or social interests of the local community and, it is realistic to think that there is a time in the next five years when there could be a main use of the building or land that would further the social wellbeing or social interests of the local community.</li> </ul> <p>"Social interests" includes (in particular)</p>
---	---

<p><b>to the list administrator or Principal Property Lawyer.</b></p>	<p>cultural, recreational and sporting interests.</p>
<p><b>Review of the initial decision</b></p>	
<p>9. If within eight weeks of being notified in writing, the asset owner requests a review of the decision, the Council must undertake a review of its decision within eight weeks. The review <b>must be heard by an Executive Director.</b></p> <p>10. In advance of the review, <b>the Executive Director must write to the asset owner</b> advising them when a decision will be made and whether any additional information will be required to inform that decision.</p> <p>11. To inform the review, the <b>Head of Service who made the original decision must</b> compile the relevant documentation to enable the Executive Director to reach their decision.</p> <p>12. Following the review <b>the Executive Director must</b> write to the asset owner and nominating body advising of the decision, set out how the decision was reached and the implications.</p> <p>13. If the request to review the listing of the asset is successful the entry must be removed from the successful nominations list <b>by the list administrator (acting on behalf of the Principal Property Lawyer)</b> and included on the list of unsuccessful nominations.</p>	<p>The owner of the land has the right to ask for the Council's decision to be reviewed. However, the owner of the land must request a review within <u>8 weeks</u> from time they are notified that the asset is to be included on the list.</p> <p>The Council may however, extend the review request period if it so chooses.</p> <p>If requested, the review of the decision to list must be completed within <u>8 weeks</u> unless parties otherwise agree in writing.</p> <p>An oral hearing must be held at owner's written request. If no request is made, the Council can decide whether or not an oral hearing is required.</p> <p>Representations to the Executive Director reviewing the decision may be made by the owner/owner's representative orally and/or in writing.</p> <p>The listing can also be removed if the Council for any reason no longer considers the land to be of community value and after a period of five years has elapsed (however after five years the asset can be re-nominated).</p> <p>If the asset owner wishes to appeal against listing review decision they can lodge their appeal to a First-Tier Tribunal</p> <p>The list must be published and be available for free inspection. One free copy of list must be provided on request</p> <p>Local authorities are required to add that an asset has been listed to the local land charges register. This will ensure that all</p>

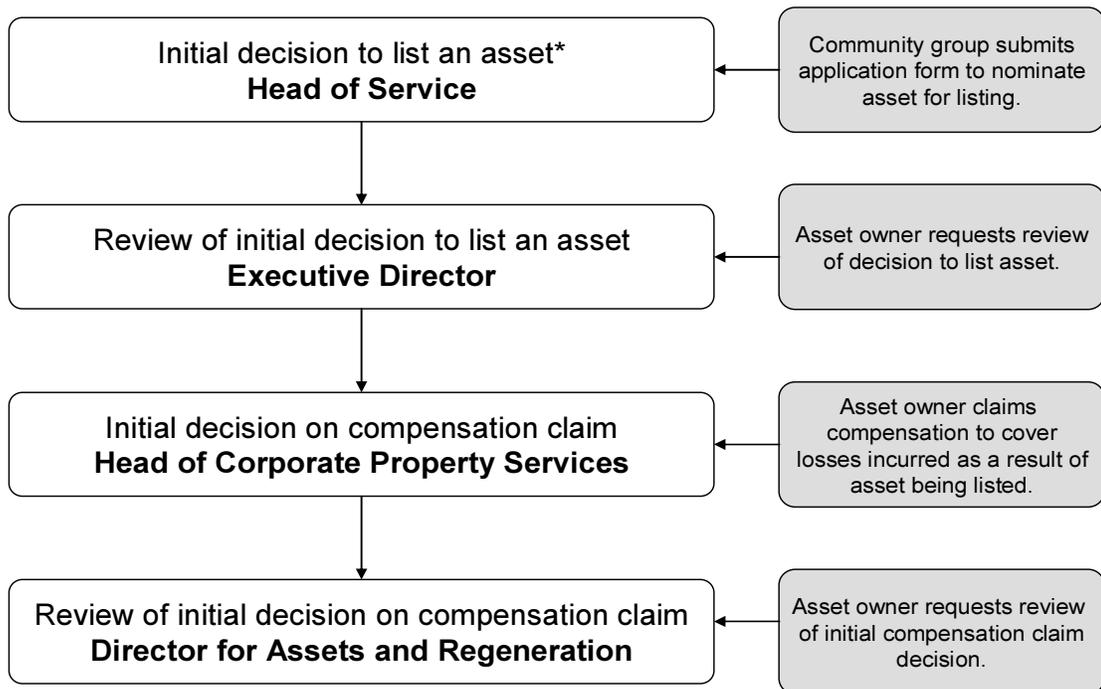
<p><b>14. The Executive Director must maintain an audit trail of the evidence that informed their decision and forward this to the list administrator or Principal Property Lawyer.</b></p>	<p>prospective new owners will be aware that an asset has been listed, since local land charges apply to both registered and unregistered land.</p> <p>Local authorities are required to apply to the Land Registry for entry of a restriction on the Land Register when they list a building or other land as an Asset of Community Value, or, if necessary, where the owner of the listed asset has changed. The local authority is also required to apply to the Land Registry for cancellation of the restriction when it removes an asset from its list.</p>
<b>Disposal of a listed asset</b>	
<p><b>15.</b> Once the asset owner notifies the Council of their intention to sell the listed asset, <b>the Principal Property Lawyer must give written notification</b> to the community organisation which nominated the asset for listing and arrange for public notification of the proposed disposal (in the area where the land is situated). The letter to the nominating body as well as the public notification must clearly set out the process and timescales involved.</p> <p><b>16.</b> Upon notification, <b>the Principal Property Lawyer must amend the successful nominations list to show that:</b></p> <ul style="list-style-type: none"> <li>• the notice of disposal has been received,</li> <li>• the date the notice was received and the end of the: <ul style="list-style-type: none"> <li>- interim moratorium period (<u>6 weeks</u> from date of notification),</li> <li>- full moratorium period (<u>6 months</u> from date of notification) and</li> <li>- protected period (<u>18</u></li> </ul> </li> </ul>	<p>The asset owner must notify the Council in writing that they wish to enter into a relevant disposal. A “relevant disposal” is a disposal with vacant possession.</p> <p>During this moratorium period a community interest group may request in writing to be treated as a potential bidder for the asset; this will bring the full moratorium period into force (see Appendix B).</p> <p>Only a defined “community interest group” may express an interest in bidding for an asset. The community interest group does not have to provide any evidence of intention or financial resources to make such a bid.</p> <p>However, a community interest group must have one or more of the following structures:</p> <ul style="list-style-type: none"> <li>• a charity</li> <li>• a community interest company</li> <li>• a company limited by guarantee that is non profit distributing</li> <li>• an industrial and provident society that is non profit distributing (these groups will be renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 when the relevant provisions come into force)</li> </ul>

<p><u>months</u> from date of notification).</p> <p>17. If during the six week moratorium period no eligible community organisation submits a written expression of interest to bid for the asset, the <b>Principal Property Lawyer must write to the asset owner</b> advising them that they are free to proceed with the sale of their asset to whomsoever they wish.</p>	
<b>Responding to a request to bid</b>	
<p>18. If the Council receives a written request (in any form) within the six week interim moratorium period from a <b>community interest group</b> wishing to be treated as potential bidder, <b>details must be passed to the owner of the land by the Principal Property Lawyer.</b></p> <p>19. <b>The Principal Property Lawyer must also write to the eligible organisation</b> advising that their expression of interest has been received and has been forwarded on to the asset owner.</p>	<p>During this period it is up to the bidding organisation or organisations to pull together a business plan and finances to bid for the asset.</p> <p>Other than passing on the details of a potential bidder to the asset owner the Council is not required to play any further role in facilitating a possible sale.</p>
<b>Dealing with compensation claims</b>	
<p>20. <b>Claims for compensation will be handled by the Head of Corporate Property Services.</b> Upon receipt of a claim <b>the Head of Corporate Property Services must</b> write back to the claimant confirming receipt.</p> <p>21. <b>In considering the claim, the Head of Corporate Property Services must</b> ensure that there is sufficient evidence available to reach a decision.</p>	<p>The owner of land is entitled to claim compensation where they have “incurred loss or expense in relation to the land which would not have been incurred if the land had not been listed”.</p> <p>However, the claim must be made within <u>13 weeks</u> after loss or expense incurred/finished being incurred.</p> <p>There is no time frame for a decision to be reached.</p>

<p>22. At their discretion the <b>Head of Corporate Property Services</b> may need to undertake a more detailed investigation in order to establish the validity of the claim. This may include inviting the claimant to provide additional evidence.</p> <p>23. <b>Once the decision has been made the Head of Corporate Property Services must</b> write to the claimant with details of the decision.</p> <p>24. <b>The Head of Corporate Property Services must</b> maintain an audit trail of the evidence that informed their decision and <b>pass this on to the Principal Property Lawyer.</b></p>	
<b>Compensation claim review</b>	
<p>25. In the event that the Council rejects a claim for compensation and the owner requests a review, <b>the review must be conducted by the Director for Assets and Regeneration.</b></p> <p>26. <b>The Head of Corporate Assets and Property, who made the original decision, must</b> assemble the relevant documentation to enable the Director for Assets and Regeneration to undertake their review.</p> <p>27. <b>The Director for Assets and Regeneration</b> must maintain an audit trail of the evidence that informed their decision and <b>forward this to the Principal Property Lawyer.</b></p>	<p>A request to review a compensation claim must be made within <u>8 weeks</u> of written notification of reasons for decision on compensation, or such longer period as the Council may allow</p> <p>The asset owner has the right to lodge an appeal against the compensation review decision. This appeal will need to be lodged before a First-Tier Tribunal.</p>

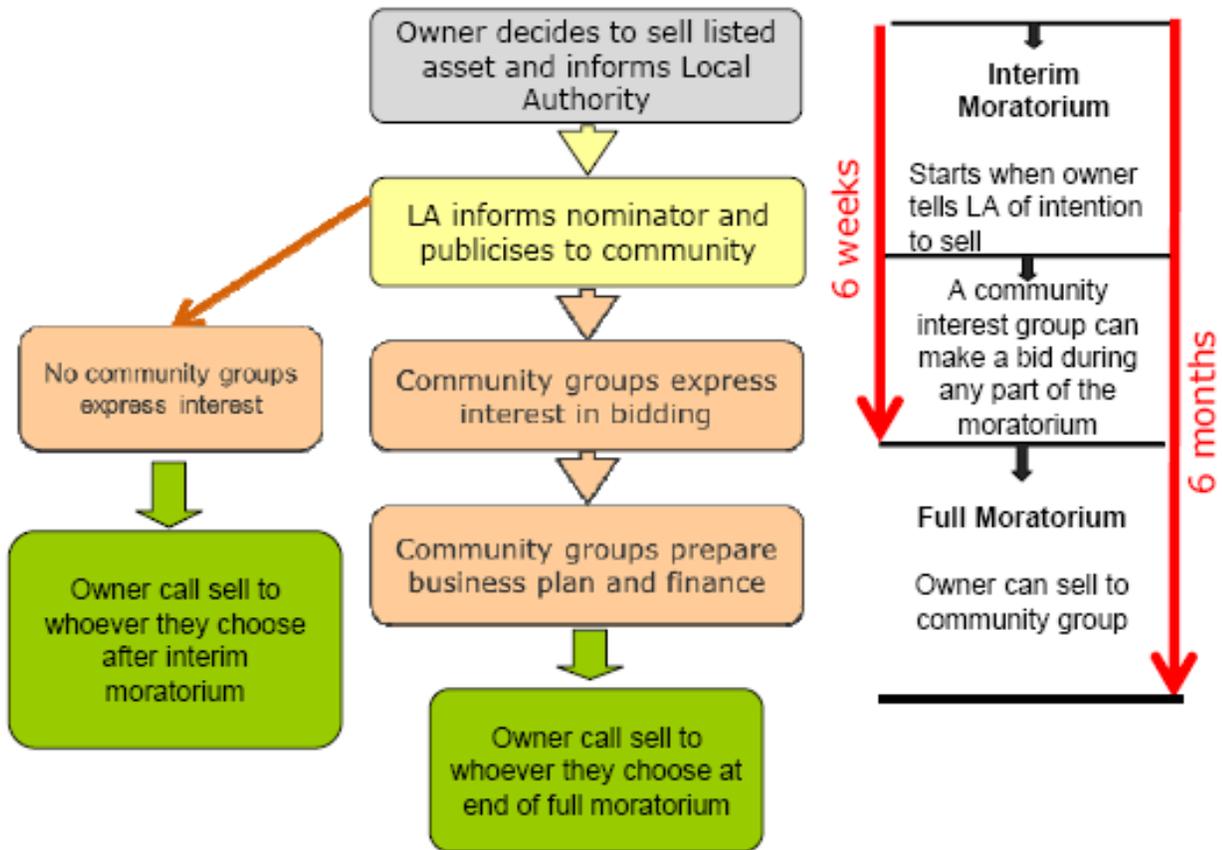
--	--

## Decision making flow chart



\*The asset lists for both successful and unsuccessful nominations will be maintained by Legal Services.

### Flow chart for bidding process



DD COMMUNITY RIGHT TO CHALLENGE (as defined in Part 5, Chapter 3  
Localism Act 2011)

Executive decisions relating to the Community Right to Challenge as set out in Part 5, Chapter 2 Localism Act 2011, are delegated in accordance with the Guidance Note attached (as may be amended from time to time by the Chief Executive).

# Guidance Note

## Community Right to Challenge

### **1 Introduction**

The community right to challenge is a statutory right given to community, voluntary and employee bodies to express an interest in providing or assisting to provide Council services. This note provides guidance for officers about how the Council will handle this statutory right.

### **2 Advertising for Expressions of Interest**

The Council can advertise that if organisations are interested in submitting an Expression of Interest (EOI) in providing a service they must do so within a period set by the Council. For those services which are already subject to contract, the Council's Procurement Team places an advert annually setting out details of contracts coming to expiry, with the periods in which organisations must make their Expression of Interest should they wish to do so. For services that are not under contract, the Council has decided that organisations must submit their Expression of Interest between 1st May and 30<sup>th</sup> June 2013

### **3 Considering an Expression of Interest**

What goes into an expression of interest is defined in law, and in deciding whether to accept an Expression of Interest the Council may only make its assessment on the information which must be the basis of the EOI. If the Council accepts an EOI, then a procurement exercise must take place.

### **4 Assessment of EOIs**

This first stage of the assessment process is concerned with making sure that the EOI is compliant with the legal requirements, and will be conducted by the Procurement Team on legal advice. The steps in the process are set out below with notes to assist.

Step	Note
<i>Stage 1</i>	
1. On receipt of an EOI, Head of Procurement to notify the organisation submitting it of the maximum time it will take for a decision to be reached on the EOI	<p>This notification must be sent within 30 days of receipt of EOI, or 30 days of end of period for submission of EOI</p> <p>It must also be published on the website</p> <p>Different periods may apply to different services. The period should be reasonable and reflect such factors as the complexity of the service, the number of EOIs received, the likelihood of modifications to the EOI</p>
2. Check whether the service is exempt or not	<p>The community right to challenge applies to almost all Council services with the exclusion of those provided to people with complex individual health or social care needs.</p> <p>In addition, those services provided in partnership with health, or by health on behalf of the Council, will only be subject to the community right to challenge from April 2014.</p> <p>Services commissioned by people in receipt of direct payments are also exempt.</p>
3. Check that the EOI is made by a relevant body	<p>Relevant bodies are community, voluntary and certain employee bodies as well as bodies/trusts established for charitable purposes and parish councils. The Secretary of State may add to this list. Statutory guidance published June 2012 expands on this definition. Refer to attached guidance</p> <p>EOIs may be submitted by a number of organisations acting in partnership. They do not all have to be relevant organisations, but any information required in an EOI must be provided in relation to all organisations making the submission.</p>
4. Check whether a decision has been made, evidenced in writing to stop the	If so, the EOI should be rejected on this ground

provision of the service	
5. Check whether the Council is in negotiations with a third party for provision of the service	If so, the EOI should be rejected on this ground.  The negotiations must be, at least in part, in writing.
6. Check whether the service is already the subject of a procurement exercise	If so, the EOI should be rejected on this ground
7. Check whether the Council has published its intention to consider the provision of the service by two or more of its employees	If so, the EOI should be rejected on this ground
8 Check whether the Council advertised a period for receipt of an EOI in respect of the service, and if so was the EOI received in that period	See Para 2 above. If not, the EOI should be rejected
9. Has the organisation provided the necessary information about the financial resources of the organisation(s) submitting the EOI.	This is likely to include copies of the organisation's audited accounts for the last three years, business plans, and company structure. The information may differ depending on the service and the nature of the organisation. Seek legal advice if necessary.  If there is insufficient information on this point the Council may ask for the organisation to modify its EOI
10. If the Procurement Team is satisfied that the EOI is compliant, the Head of Procurement will inform the ED Resources and Regeneration and establish a working	The working group will consist of the ED Resources and Regeneration, the ED of the relevant service area(s), the Head of Law and the Head of Procurement (or their nominees). That group will assess Stage 2 of the process. Consideration will have to be given to ensuring that there is no conflict of interest for members of this group. Legal advice should be sought if necessary on this point.

<p>group to complete the evaluation of the EOI</p>	<p>If the Head of Procurement is not satisfied on legal advice that an EOI is compliant, he will submit a full report to the Executive Director for Resources &amp; Regeneration for formal consideration.</p> <p>If it is agreed by the ED that the EOI is non-compliant it will not be further considered and will be rejected. The Council will inform the organisation who submitted the EOI the ground(s) upon which it has been rejected.</p>
<p><i>Stage 2</i></p>	
<p>11. Assess whether the organisation(s) submitting the EOI will be capable of providing the service by the time of any procurement exercise</p>	<p>The critical words here are “at the time of any procurement”. The organisation may not be ready at the time of the assessment, but may have realistic plans to be so by the time of procurement.</p>
<p>12. Assess whether the outcomes proposed by the organisation(s) submitting the EOI would enhance the social economic or environmental wellbeing of the area, and how it will meet the needs of service users.</p>	<p>This reflects the best value duty and the requirements of the Public Services (Social Value) Act 2012 which is in force now. It means the Council should take into account social considerations as well as service requirements. It may include such matters as creating local jobs, improving local skills, increasing volunteering opportunities. Proportionate engagement with users would be expected.</p> <p>The Council can also take into account value for money that a procurement exercise would entail greater costs or reduced costs including staffing and transfer costs.</p>
<p>13. A report must then be prepared as the basis on which a decision is to be made about whether to accept or reject the EOI</p>	<p>If the value of the service exceeds £500,000, the report must be considered by the Mayor in accordance with the Mayoral Scheme of Delegation. Below that limit, the report is referred to the ED Resources and Regeneration, who may in any event refer the decision to the Mayor if appropriate to do so.</p> <p>Any rejection may only be based on information contained in an EOI or a modification to it.</p> <p>An EOI may only be rejected on the following grounds:-</p>

	<ul style="list-style-type: none"> <li>• Non compliance with the Act or regulations</li> <li>• Inadequate or inaccurate information in the EOI</li> <li>• Unsuitability of the organisation, consortium member or sub contractor</li> <li>• Decision made to stop the service</li> <li>• Integration of service with health is critical to wellbeing of users</li> <li>• Ongoing procurement exercise</li> <li>• Ongoing negotiations with an employee body</li> <li>• The EOI is frivolous or vexatious</li> <li>• Acceptance would contravene the law or entail a breach of statutory duty</li> </ul>
14. The Council must then inform the organisation of its decision.	If the EOI is refused, the reasons must be specified. If the EOI is accepted, the Council must specify the length of time between acceptance and the commencement of the procurement exercise.
15. The procurement exercise ensues in accordance with the law and Council standing orders.	In house proposals are not prohibited by the legislation or guidance, though the Council would need to be able to show that any internal proposal had been evaluated on the same terms as external bids.

## 5. EOI by employees

When an EOI is submitted by 2 or more employees of the Council, arrangements will be put in place to ensure that there is no conflict between the interest of the employees concerned and that of the Council. It is likely that “Chinese walls” will have to be put in place to ensure that no conflict arises and that in any future procurement process the employee body is not seen to have had an unfair advantage over other tenderers by preferential treatment by the Council.

Following any expression of interest by employees, it is possible that they would have to take unpaid leave, or be moved to other unrelated duties until they have worked up any proposals in the procurement process in their own time. The arrangements will depend upon the circumstances of each case, but the underlying principle will be to treat all potential bidders, internal or external, with fairness.

**DELEGATIONS TO THE EXECUTIVE ACTING COLLECTIVELY****1. CONTRACTS**

To approve tender strategy in relation to the letting 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 delegation, 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 in relation to that property transaction (including, but not limited to, 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**

**LONDON BOROUGH OF LEWISHAM  
WORKS COUNCIL  
CONSTITUTION AND FUNCTIONS**

1. Title

The Joint Committee shall be called the "Works Council".

2. Terms of reference

- A. The functions of the Works Council shall be;
- I. a forum for consultation and negotiation between the Council and its employees on corporate issues in relations to conditions of service;
  - II. to provide a forum for the discussion and prevention of differences and the resolution of disputes where they arise;
  - III. to establish regular consultation between the local authority and its employees on matters such as personnel policy initiatives;
  - IV. to make recommendations to the appropriate Committee on the application and interpretation of terms and conditions of service of employees;
  - V. to consider any relevant matter referred to it by a Committee of Council, or by the Joint Secretary of either Side; and
  - VI. to carry out such other functions as are specifically assigned to it.

It should be noted that any issue of relevance solely to one set of national conditions, or which is considered by one employee group to be of particular relevance to its conditions, may in the first instance be considered by the appropriate Local Joint Committee. It may be referred tot he Works Council if both sides of the LJC considered it appropriate. Collective appeal rights to go directly from the LJC to provincial or national level will not be affected.

- B. The Works Council shall not consider:

- I. any matter concerning an individual employee, e.g. discipline, grievance, promotion or efficiency;
- II. any matter which is properly the function of any other body, including the governing bodies of locally-managed institutions.
- C. In the event of any matter arising upon which the Works Council cannot agree, the matter may be referred by either side to the appropriate recognised negotiating body, in accordance with the relevant National Scheme of Conditions of Service.
- D. The Works Council may refer any question before it for consideration by, and the advice of, the appropriate negotiating body and shall inform that body of any recommendation of the Works Council which appears to be of more than local interest, always provided that such recommendation shall be approved by the local authority prior to its submission to the provincial body.
- E. The Works Council shall use its best endeavours to ensure that all relevant collective agreements are applied throughout the Council.

### 3. Membership

- (a) The Councillors who sit on the Works Council should be such members of the Executive as the Mayor shall appoint and he appoints all members of the Executive with the exception of himself.
- (b) The Union Side shall comprise not more than 17 employees.
- (c) The Council and the constituent trade unions shall both appoint substitute members of the Works Council, any one of whom shall act as a substitute for a full member of the appropriate side in the event of the latter being unable to attend a meeting. A substitute attending a meeting in place of a member shall have the same powers as the member.
- (d) If a member or a substitute member of the Works Council ceases to be a Member of the Council or an employee of the Council, that member shall cease to be a member of the Works Council. Any such vacancy arising shall be filled by the Employer's Side of the Union Side as appropriate.

### 4. Chair

A Chair and a Vice-Chair shall be appointed by the Works Council at its first meeting in each municipal year. The Chair shall be a member of the Employer's Side, the Vice-Chair shall be appointed from the Union Side.

5. Officers and Advisers

- (a) Each Side of the Works Council shall appoint a Joint Secretary.
- (b) Each Side may invite advisers to attend meeting of the Works Council. The Joint Secretaries shall notify each other of the advisers they are inviting to each meeting. Persons attending under this provision shall be entitled to speak.

6 Meetings

- (a) The Works Council shall meet as required and not less than once a quarter. Either Joint Secretary may call a meeting at any time. The Joint Secretaries shall arrange agenda, dates and times of meetings and for the circulation of documents for meetings. The Union Side Joint Secretaries of the other Local Joint Committees may attend any meetings arranged to discuss agendas with the Joint Secretaries.
- (b) Items not included on the agenda for a meeting may be considered by the Works Council with the agreement of both Sides.
- (c) A special meeting of the Works Council shall be called within 10 working days at the request of either Joint Secretary.
- (d) The minutes of the Works Council shall be agreed by the Chair and Vice-Chair. Disputes about the minutes shall be resolved through the Joint Secretaries.
- (e) The minutes shall be reported to the Executive.

7. Quorum

Three members of the Employer's Side and five members of the Union Side with at least one representative from each of the following groups; manual, craft, officer and teacher, shall constitute a quorum.

8. Payment to Union Side and their Advisers

Members of the Union Side shall receive payment at plain time rate for attendance at Works Council meetings.



**DIRECTORATE SCHEMES OF  
DELEGATIONS**

## **(C) DIRECTORATE SCHEMES OF DELEGATION**

### **The Directorate for Children and Young People Scheme of Delegation**

#### **1. Purpose**

- 1.1 The Children and Young People's Directorate scheme of delegation sets out the post titles of those officers whom the Executive Director for Children and Young People (CYP) has decided shall be nominated to take decisions on areas from the Mayoral Scheme of Delegation where responsibility has been delegated to the Executive Director for CYP.
- 1.2 This Scheme of Delegation comes into operation from 26 November 2009 and will remain in force until it is amended or revoked by the Executive Director for CYP or via changes to the Mayoral Scheme of Delegation.
- 1.3 The purpose of the CYP Directorate scheme of delegation is to be clear about which officer has been nominated to make delegated decisions within this directorate.
- 1.4 The scheme is subject to the Council's Constitution, the Mayoral Scheme of Delegation, Financial Regulations and Contract Procedure Rules.
- 1.5 Heads of Service will continue to be responsible for running their own services and taking decisions in line with their service requirements unless specifically required in this scheme of delegation or determined by the Executive Director for CYP to seek other agreement.
- 1.6 Some decisions in this scheme of delegation will still be required to be taken directly by the Executive Director for CYP or in their absence they will nominate an appropriate officer/s to assume these responsibilities but unless otherwise notified the following delegations will apply:
  - Directorate financial decisions – Head of Resources
  - Legal decisions – Head of Law or Deputy Monitoring Officer/Principal Lawyers as appropriately nominated by the Head of Law
  - Directorate Personnel/Human Resources decisions - Head of Resources
  - Acts under authority delegated to the Executive Director for CYP in his/her absence - Head of Resources, (unless specifically delegated to a Head of Service)
  - Contract matters – Head of Resources
- 1.7 Where the word 'nominee' is used the nomination is to be made by the post holder referred to, in writing, and a record of all such nominations

within the directorate must be kept in the directorate and available for inspection at any time.

- 1.8 Where power is delegated to the Executive Director, and officers are nominated by him/her 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, as defined in Article 16 of the Constitution of the London Borough of Lewisham, the law requires them to comply with prevailing access to information regulations. In addition, for key executive decisions which are to be taken by officers individually, the Chief Executive may, from time to time, 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 procedures as stated in the Financial Regulations

### Delegations

Unless required otherwise by law, the Constitution, the Council and Mayoral Scheme of Delegation or this Scheme of Delegation, the Executive Director for Children and Young People nominates the following post holders to make the decisions set out in the table below as listed.

### Mayoral Areas of Delegation

Area	Matters to be delegated to Service Unit Manager (SUM) or other named postholder	Matters to be delegated but reserved to Head of Service (or equivalent)	Matters to be reserved to the Executive Director	Matters to be reserved to Members
Student Awards and Pupil Services	Student scholarships or pupil grants up to £10,000		Executive Director to be co-signature for drawing funding from Paymaster re: mandatory support.	
Educational Psychologists & Learning Support	Educational Psychologists & learning Support SUM to exercise all statutory powers to identify and meet children's special		None	

	educational needs under the Education Act 1996 and all Code of Practice stages within the prescribed timescales.			
Governors' Support	Governors' Support Team Leader to exercise powers including governor elections, information packs for governors, governor training programme, resolutions from Annual Parents' meetings, recruitment of governors, clerking provision, servicing of governor fora etc.		None	
Special Educational Needs	<p>SEN SUM to determine additional support provided through a formal assessment.</p> <p>SEN SUM to determine provision of free transport for eligible pupils, subject to notifying Head of Pupil Services of any decisions made at SEN Tribunals which are contrary to LEA policy.</p>	Head of Pupil Services to agree contracts between the LEA and Independent/non-maintained schools.	None	

<p>Educational Access</p>	<p>Admissions Team Leader to implement policies on admissions matters including:</p> <ul style="list-style-type: none"> <li>• preparation of statements setting out arrangements on limits to infant class sizes</li> <li>• carrying out of statutory consultation on admission policies</li> <li>• publication of information on admissions arrangements</li> <li>• arrangements for admissions and exclusions appeals.</li> </ul>	<p>SUM Educational Access to be responsible for:</p> <ul style="list-style-type: none"> <li>• attendance of children of compulsory school age</li> <li>• arrangements for out of school provision</li> <li>• exceptional admissions decisions e.g. children of teachers and those with social/ medical needs</li> <li>• pre-exclusion intervention</li> <li>• monitoring and improving educational outcomes for children looked after</li> <li>• enforcement of child employment legislation</li> </ul> <p>Head of Pupil Services to direct schools to admit specific pupils when they have a vacancy.</p>	<p>Executive Director to approve school term and holiday dates.</p>	
---------------------------	---	--	---	--

School Interventions as set out in Education and Inspection Act 2006		<p>Head of Standards and Achievement to exercise the intervention powers set out in the Education and Inspections Act 2006 :</p> <ul style="list-style-type: none"> <li>• issue warning notices;</li> <li>• direct governing body to enter into specified arrangements</li> <li>• appointment of additional governors</li> <li>• with Secretary of State consent to provide for the governing body to consist of interim executive members</li> <li>• suspend a school's right to a delegated budget</li> </ul>		The issue of a closure notice following a direction from the Secretary of State.
School Discipline		Exercise of power to intervene to prevent a breakdown or continuing breakdown of discipline in a maintained school.		
Finance	Day to day control and monitoring of individual service budgets – budget holders.	Strategic Oversight and monitoring of the overall directorate budget.– Head of Resources.		

<p>Revenue Budget Virements in CYP</p> <p><b>Cross Directorate Revenue Budget Virements</b></p> <p>A Budget Virement is a transfer of a budget from the purposes for which Council originally voted in setting the budget and Council Tax to another purpose.</p>	<p>Head of Service in conjunction with Group Finance Manager – up to £20k within directorate</p>	<p>Head of Service with Head of Resources –up to £100k</p> <p>Head of Resources with Head of Service and Head of Business Mgt and SS up to £50k</p>	<p>Up to £500,000 in conjunction with Executive Director Resources.</p> <p>Executive Director for Resources &amp; Regeneration via EMT up to £500k</p>	<p>All revenue budget virements above these limits are reserved to Members</p>
<p>Capital Budget Virements</p>			<p>Executive Director for Resources &amp; Regeneration – up to £500k</p>	<p>Over £500k</p>
<p><b>Budget Adjustments</b></p> <p>A Budget Adjustment is a transfer of a budget from one cost centre to another whilst retaining the original purpose for which the budget was approved.</p> <p>Any items that fall outside the above</p>	<p>Group Finance Manager - within the same service area.</p>	<p>Group Finance Manager with Heads of Service – across service areas.</p>		

definitions must be referred to the Head of Resources for further clarification.				
Appeals against decisions on grant aid			Where amount does not exceed £10,000.	
Loans				Reserved to members
Licensed deficits			Up to £100,000 by Head of Resources. Up to £500,000 in conjunction with Head of Resources.	Over £500,000 reserved to members.
Land issues; acquisition and disposal of land and buildings.				See scheme of delegation for Regeneration and Resources Directorates.
<p><b>Contracts</b></p> <p>There are three categories of contracts:-</p> <p><b>Category A</b> - 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</p>				

<p>the EU procurement regime (Works, Supplies and Part A Services).</p> <p><b>Category B -</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).</p> <p><b>Category C-</b> All other contracts or arrangements with an estimated value of less than £40,000.</p> <p>Inviting Contracts</p>		<p>Category C (No approved list or waiver required). Head of Service</p>	<p>Category A and B – By public advert</p> <p>Authorise the Approved list</p> <p>Category B – Waiver</p>	<p>Category A - Waiver</p>
<p>Receipt of Contracts</p>		<p>Category C – Head of Service</p>	<p>Category A – Chief Executive</p>	

			Category B – Executive Director	
Opening Envelopes – At least two officers		Category C Two officers approved by Executive Director	Category A Chief Executive or nominated officer and Officer approved by Executive Director for Resources & Regeneration/Head of Law Category B Executive Director or nominated officer and Officer approved by Executive Director for Resources & Regeneration	
Award of Contract		Category B (where the lowest price is not the most economical)  Less than £200k Head of Resources and Head of Service  Category B (Where the lowest price is the most economical)  Less than £200k Executive Director or nominated officer with appropriate authorised spending level Category C Head of Service	Category B (where the lowest price is not the most economical)  £200k or more Executive Director and Head of Service with Scrutiny  Category B (Where the lowest price is the most economical)  £200k or more Executive Director with Head of Service	Category A  Mayor and Cabinet with Scrutiny

Contract Signing		Less than £200k - Officer designated by the Executive Director	Over £200k – Sealed by Legal Services	
Grants to Vol orgs and other organisations Rent grants			<p>Unless the law, the Constitution, or the Mayoral 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:-</p> <p>(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 moneys worth does not exceed £10,000</p>	
			(b) the power to reduce or withdraw a grant or other assistance, and the power to award a grant or give other assistance to a	

			<p>voluntary organisation (irrespective of the value of the grant or assistance) within their area of responsibility if the value of the change in grant is no more than 10% or £5,000, (whichever is the greater), than the grant awarded in the previous year.</p> <p><b>All grants considered to be sensitive or controversial to be included in the key decision plan</b></p>	
<p>Approval of any application for external funding which is below £1 million with no match funding implications.</p> <p>Note: All other applications must be approved by Members. Before submitting a report to Mayor and Cabinet to seek approval to bid for funding, an initial agreement to proceed <b>must</b></p>			<p>Executive Director and Head of Business Management and Service Support, in conjunction with the Directorate Project Review Group or where necessary the Corporate Project Board.</p>	

be sought from the Directorate Project Review Group or Corporate project Board as appropriate.				
Subscriptions – affiliations to and payment of subscriptions to outside bodies up to a maximum of £25,000 per annum.		Within own area of responsibility up to £5K.	Above £5k up to £25k – Executive Director (or in their absence the Head of Resources).	
Bad Debt Write Off		Write off of bad debts (excluding housing rents); in accordance with Resources Directorate Scheme of Delegation; Head of Resources or nominee can <b>recommend</b> to Executive Director of Resources and Regeneration.		
Write off of non-land and building assets		Heads of Service – up to £20,000.		
Early Years Centres	Placements of children in need Community Placements			
Outdoor Education	Charges			
<b>Employment Matters</b>				
Probationary		Heads of Service	Executive	

appeals		to hear probationary appeals for employees in their division.	Director to hear probationary appeals for Heads of Service.	
Disciplinary and capability appeals		Heads of Service hear disciplinary and capability appeals for employees in their division.	Executive Director to hear disciplinary and capability appeals for Heads of Service	
Suspensions		Heads of Service to approve suspension from duty of any employees within their divisions, advised by personnel SUM.	Suspension of Heads of Service (or equivalent salary level) or any staff reporting directly to them, as advised by head of Corporate personnel.	
Reorganisations	SUMS to prepare proposals for consultation	Heads of Service to approve proposals and take to DMT.		
Health & Safety				
Settling Employment Tribunal claims out of court.	Personnel SUM to settle claims to £5000			
Resignation/ Retirement of Headteachers		Head of Resources to settle claims over £5000 advised by legal and corporate personnel.	All cases where costs to be met by LEA.	
<b>Services for children and families</b>				
Placements in Secure Accommodation		Head of School Effectiveness and Head of Resources to approve packages in excess of 6 months gross pay in consultation with Chair of Governors.		
Placements in residential or foster care				
Authorisation of				

Children Act (1989) foster carer enhancements	up to £50 per payment up to a maximum of £250 per family per annum – Team Leaders	Head of Service, Children & Families		
Authorisation levels for Children Act (1989) s.17 Children in Need payments:	up to £500 per payment up to a maximum of £2,500 per family per annum - SUMS	Group Manager  Group Manager LAC or Group Manager PAH		
Authorisation levels for Children Act (1989) s.23 payments to LAC & s.24 Leaving Care payments:	<ul style="list-style-type: none"> <li>• up to £50 per payment – Team Leaders</li> <li>• up to £1,000 per payment - SUMS</li> </ul>	<p>up to £5,000 per payment up to a maximum of £15k per family p.a. – Group Managers</p> <p>up to £15k per payment up to a maximum of £50k p.a – Head of Service</p> <ul style="list-style-type: none"> <li>• up to £5,000 per payment- Group Managers</li> </ul> <p>over £5,000 per payment – Head of Service</p>		

### 3. 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 Children's Services and the Director of Adult Services).

#### General Guidance

Unless the law, the Constitution or this Scheme of Delegation requires otherwise, the following powers are delegated to the Executive Director for CYP:-

- (a) Authority to exercise the Council's executive functions in relation to education, including but not limited to, those contained in the Education Act 1996 and School Standards and Framework Act 1998, Learning & Skills Act 2000 and all other relevant legislation in force from time to time, with the exception of the matters listed in Table 2 above.
- (b) The exercise of all executive functions relating to the provision of opportunities for education, training and learning outside the formal school environment, including pre-school.
- (c) All executive decisions relating to the internal management of the Directorate of Children and Young People which are not otherwise reserved to members on any ground.

### Exemptions

The Mayoral Scheme of Delegation states that authority to exercise executive functions and make executive decisions is delegated to officers, except where there is an exemption to the contrary. Where such an exemption exists, the general rule is that those decisions will be made by the Mayor individually, in consultation with his colleagues in the Executive. Officers should refer to the Mayoral Scheme of Delegation; to Section I and Table 1 for general exemptions, and to Section J and Table 2 for exemptions specific to the CYP Directorate. Exemptions which may override delegated authority to officers to make decisions, as detailed in Section 2 of the CYP Directorate of Delegation, are repeated below.

1. Any matter in which the officer who would otherwise have delegated authority to act is aware that a councillor (or a person, company or organization with which the councillor is involved) has a personal interest under the Council's Member Code of Conduct.
2. Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest.

Signed

\_\_\_\_\_  
Frankie Sulke  
Executive Director For CYP

\_\_\_\_\_  
Date

## **The Directorate for Community Services Scheme of Delegation**

### **1. Purpose**

- 1.1 The Community Services Directorate Scheme of Delegation sets out the names/titles of those officers whom the Executive Director for Community Services has decided shall be nominated by him/her to take decisions on areas from the Mayoral Scheme of Delegation where responsibility has been delegated to the Executive Director for Community Services.
- 1.2 This Scheme of Delegation comes into operation from 26 November 2009 and will remain in force until it is amended or revoked by the Executive Director Community Services or via changes to the Mayoral Scheme of Delegation.
- 1.3 The purpose of the Community Services Directorate scheme of delegation is to be clear about which officer has been nominated to make delegated decisions within this directorate.
- 1.4 The scheme is subject to the Council's Constitution, the Mayoral Scheme of Delegation, Financial Regulations and Standing Orders.
- 1.5 Heads of Service will continue to be responsible for running their own services and taking decisions in line with their service requirements unless specifically required in this scheme of delegation or determined by the Executive Director for Community Services to seek other agreement.
- 1.6 Some decisions in this scheme of delegation will still be required to be taken directly by the Executive Director for Community Services. In their absence they will nominate an appropriate officer/s to assume these responsibilities but unless otherwise notified the following nominations will apply:
  - Directorate financial decisions – Head of Business Management and Service Support
  - Acts under authority delegated to the Executive Director for Community Services in his/her absence - Head of Business Management and Service Support (unless specifically delegated to a Head of Service)
  - Contract matters – appropriate Head of Service
- 1.7 Where the word 'nominee' is used the nomination is to be made by the post holder referred to, in writing, and a record of all such nominations within the directorate must be kept in the directorate and be available for inspection at any time.
- 1.8 Where power is delegated to the Executive Director, and officers are nominated by him/her 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, as defined in Article 16 of the Constitution of the London Borough of Lewisham, the law requires them to comply with prevailing access to information regulations. In addition, for key executive decisions which are to be taken by officers individually, the Chief Executive may, from time to time, 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 procedures as stated in the Constitution.

## 2. Scheme of Delegation

Unless required otherwise by the law, the Constitution, the Council and Mayoral Scheme of Delegation or this Scheme of Delegation, the Executive Director for Community Services nominates the following post holders to make the decisions set out in the table below.

### Mayoral Areas of Delegation

Area of delegation	Officer with delegated authority
Strategic oversight and monitoring of the overall directorate budget.	Head of Business Management and Service Support
Day to day control and monitoring of individual service budgets. The exception is care packages for individual service users which are subject to separate delegated arrangements set out below.	Budget holders or managers with budget responsibility
<p><b>Virements</b></p> <p>A Virement is a transfer of a budget from the purposes for which Council originally voted in setting the budget and Council Tax to another purpose.</p> <p><b>Revenue Virements</b></p> <p><b>Within the Directorate</b></p>	
a) Up to £20k	Head of Service on advice of Group Finance Manager
b) Above £20,000 and up to £100,000	Head of Service on

	advice of Head of Business Management and Service Support
c) Above £100,000 and below £500,000	Executive Director
<b>Cross Directorate</b>	Head of Service (and HOR CYP if it involves CYP) on advice of Head of Business Management and Service Support
a) Up to £50k	
b) Over £50k and up to £500k	Executive Director for Resources & Regeneration
All revenue virements above these limits are reserved to Members	
<b>1.20.1 Capital Virements (on the Council's Capital Programme)</b>	Executive Director for Resources & Regeneration
Up to £500k	
Over £500k	Members
<b>Budget Journals</b>	
A Budget Journal is a transfer of a budget from one cost centre to another whilst retaining the original purpose for which the budget was approved.	
Within the same Service area	Group Finance Manager
Across Service areas	Head of Service on advice of Group Manager
Any items that fall outside the above definitions must be referred to the Head of Business Management and Service Support for further clarification	

<p><b>Contracts</b></p> <p>There are three categories of contracts:-</p> <p><b>Category A</b> - 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).</p> <p><b>Category B</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).</p> <p><b>Category C</b>- All other contracts or arrangements with an estimated value of less than £40,000.</p> <p><b>Inviting Contracts</b></p>	
<p><b>Category A – By public advert</b></p>	
<p>Authorise the Approved list</p>	<p>Executive Director</p>
<p>Waiver</p>	<p>Mayor and Cabinet</p>
<p><b>Category B – By public advert</b></p>	
<p>Authorise Approved List</p>	<p>Executive Director</p>
<p>Waiver</p>	<p>Executive Director for Resources &amp; Regeneration</p>
<p><b>Category C - No approved list or waiver required</b></p>	<p>Head of Service</p>
<p><b>Receipt of Contracts</b></p> <p>Category A</p>	<p>Chief Executive</p>
<p>Category B</p>	<p>Executive Director</p>

Category C	Head of Service
<b>Opening Envelopes (At least two officers)</b>	
Category A	Chief Executive or nominated officer and Officer approved by Executive Director for Resources & Regeneration/Head of Law
Category B	Executive Director or nominated officer and Officer approved by Executive Director for Resources & Regeneration
Category C	Two officers approved by Executive Director
<b>Award of Contract</b>	
Category A	Mayor and Cabinet
Category B (where the lowest price is not the most economically advantageous)	
£200k or more	Executive Director
Less than £200k	Head of Service on advice of Head of Business Management and Service Support
Category B (Where the lowest price is the most economically advantageous)	
£200k or more	Head of Service on advice of Executive Director
Less than £200k	Executive Director or nominated officer with

	appropriate authorised spending level
Category C	Head of Service
<b>Contract Signing</b>	
£200k or more	Sealed by Head of Law
Less than £200k	Officer nominated by the appropriate Executive Director
<b>Grants and Assistance to Voluntary Organisations</b>	
Unless the law, the Constitution, or the Mayoral 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 moneys worth does not exceed £10,000	Executive Director
(b) the power to reduce or withdraw a grant or other assistance, and the power to award 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 change in grant is no more than 10% or £5,000, (whichever is the greater), than the grant awarded in the previous year.	Executive Director
<b>Application for External Funding</b>	
Approval of any application for external funding which is below £1 million with no match funding implications. Note: All other applications must be approved by Members. Before submitting a report to Mayor and	Relevant Executive Director or Executive Director Resources and Regeneration if cross-directorate.

Cabinet to seek approval to bid for funding, an initial agreement to proceed <b>must</b> be sought from the Directorate Project Review Group or Corporate project Board as appropriate.	
<b>Subscriptions</b> - affiliations to and payment of subscriptions to outside bodies up to a maximum of £25,000 per annum	
Within own area of responsibility up to £5k	Head of Service
Above £5k up to £25k	Executive Director (or in their absence the Head of Service on advice of Head of Business Management and Service Support)
<b>Bad Debt Write Off</b>  Recommendation of write-off of bad debts (excluding housing rents) to the Executive Director for Resources & Regeneration (up to £50,000) (£50,000 and over)	Executive Director/ Head of Business Management and Service Support
<b>Write off of non land and building assets</b>  Write off up to £20,000	Heads of Service on advice of Group Finance Manager
<b>Spot contracts for care for individual clients</b>  Note : the following limits are currently subject to review. Any amended limits will be lower/tighter than current ones.  Services for Older Adults and younger adults with Physical Disabilities/long term illness	
Residential Care Home Placements and Band 2 Nursing Home Placements	Service Managers
Very Sheltered Housing Placements	Service Manager, Older Adults
Domiciliary Care Packages over £200 per week	Relevant Service Manager

Domiciliary Care Packages of less than £200 per week	Operational Manager
Changes to care packages or placement following a review – same thresholds as above	
<b>Community Occupational Therapy Services</b>	
Adaptations or equipment from the standard list costing up to £500	Occupational Therapist
Specialist equipment costing up to £500 not on the standard list	Senior Occupational Therapist
Specialist or standard equipment costing between £500 - £1,000	Occupational Therapy Team leader
Adaptations costing between £500 - £1,000	Occupational Therapy Team leader
Major housing adaptations costing more than £1,000	Occupational Therapy team leader on advice of private sector housing/ strategic housing Manager
Equipment costing more than £1,000	Service Manager
<b>Services for adults with mental health problems</b>	
Residential placements or care packages costing more than £200 per week	Joint Community Mental Health Services Manager
Placements or care packages costing less than £200 per week	Community Mental Health Team Manager
Changes to care packages or placement following a review – same thresholds as above.	
<b>Services for people with learning disabilities</b>	
Residential placements or care packages costing more than £200 per week	Joint Commissioner AWLD
Placements or care packages costing less than £200 per week	Service Manager

Changes to care packages or placement following a review – same thresholds as above.	
<p><b>Integrated service provision</b></p> <p>Decisions relating to the integration of services under the provisions of the Health Act 1999 or other management arrangements where the value of the Council's contribution does not exceed £500k per annum.</p>	Executive Director Community Services
<p><b>Changes to service delivery</b></p> <p>Decisions relating to the introduction of a new service or the cessation of a service where the value of the service concerned is or would be if introduced less than £500k per annum.</p>	Head of Service
<p><b>Fees and Charges</b></p> <p><b>Library Service</b></p> <p>Reservations Photocopying Faxes Local History postcards and books Withdrawn stock Open learning Centre: hire of pc's.</p> <p>Hire of Halls/Rooms: Lewisham library Blackheath Village Library</p> <p>Charges for services which are currently free</p> <p>Library fines (overdue items, lost items, replacement tickets)</p> <p>Hire of halls/rooms at libraries: any deviation from, or change to existing policy for charges</p>	<p>Library Service Manager</p> <p>Head of service to apply charging policy to determine charges</p> <p>M&amp;C</p> <p>M&amp;C</p> <p>M&amp;C</p>
<p><b>Community Centre Charges</b></p> <p>Apply charging policy in respect of:</p>	Head of Neighbourhood

<p>Evelyn Community Centre  W G Grace Community Centre  Heathside and Lethbridge Hall  Hillcrest Clubroom  Meadows Community Centre  Pepys Tenants Hall  Ravensbourne Community Centre  Scotney Hall  Sedgehill Community Centre  Wells Park Hall  Woodpecker Community Centre</p> <p>Deviation from, or change to existing policy for charges.</p> <p><b>Office Premises</b>  Rent subsidies to voluntary organisations in the following office premises</p> <p>Parker House  28 Deptford High Street  2 Catford Broadway  120 Rushey Green  308 Brownhill Road  2-4 Devonshire Road  Saville Centre  Ackroyd Community Centre  Lewisham Irish centre  Wesley Halls  299 Kirkdale  300 Stanstead Road  138 Lewisham Way  77 Watson Street</p>	<p>and Community Development</p> <p>Members</p> <p>Head of Neighbourhood and Community Development</p>
<p><b>Community Use Agreements</b>  (e.g. Sports Lottery)</p>	<p>Sport and Leisure Manager</p>
<p>Broadway Theatre : Setting ticket prices within charging policy</p> <p>: Policy for hire charges</p>	<p>Theatre Manager</p> <p>Mayor &amp; Cabinet</p>
<p><b>Leisure Centres</b></p>	<p>Charges to continue to be dealt with by reference to the terms of</p>

	agreement (previously approved by M&C). Any changes not in line with terms of agreement would therefore be submitted to members as a variation to the agreement.
<b>Fees &amp; Charges for Community and Adult Education</b>	CEL Service Manager to apply charges within the charging policy
Any deviation from or change to existing policy for charges	M&C
Setting casual/seasonal rates of pay. EG Libraries, Sport and Active recreation.	Head of Service
Charges for use of day centres	Service Manager

### **Non-Executive Licensing Matters Delegated by the Licensing Committee**

To the Executive Director for Community 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:

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Application for Personal Licence	Any matter which the Head of Crime Reduction & Supporting People considers to be more appropriate for consideration by the main Committee	If a police objection	If no objection Made – Licensing Manager
Application for Premises Licence / Club Premises Certificate	As above	If a relevant representation made	If no relevant representation made – Licensing

			Manager
Application for Provisional Statement	Any matter which the Head of Crime Reduction & Supporting People considers to be more appropriate for consideration by the main Committee	If a relevant representation made	If no relevant representation made – Licensing Manager
Application to vary Premises Licence / Club Premises	As above	If a relevant representation made	If no relevant representation made – Licensing Manager
Application to vary Designated Premises Supervisor	Any matter which the Head of Crime Reduction & Supporting People considers to be more appropriate for consideration by the main Committee	If a Police objection	All other cases – Licensing Manager
Request to be removed as Designated Premises Supervisor	As above		All other cases – Licensing Manager
Application for transfer of Premises Licence	Any matter which the Head of Crime Reduction & Supporting People considers to be more appropriate for consideration by the main Committee	If a Police objection	All other cases – Licensing Manager
Application for Interim Authorities	As above	If a Police objection	All other cases – Licensing Manager
Decision on whether a complaint is irrelevant frivolous, vexatious etc	Any matter which the Head of Crime Reduction & Supporting People considers to be more appropriate for consideration by the main Committee		All other cases – Licensing Manager

**Please refer to the Council Scheme of Delegation for all other matters reserved to the Licensing Committee and Licensing Sub-Committee**

**3. 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 Children's Services and the Director of Adult Services).

**4. Exemptions**

The Mayoral Scheme of Delegation states that authority to exercise executive functions and make executive decisions is delegated to officers, except where there is an exemption to the contrary. Where such an exemption exists, the general rule is that those decisions will be made by the Mayor individually, in consultation with his colleagues in the Executive. Officers should refer to the Mayoral Scheme of Delegation; to Section I and Table 1 for general exemptions and to Section K and Table 3 for exemptions specific to Community Services. Exemptions which may override delegated authority to officers to make decisions, as detailed in Section 2 of the Community Services Scheme of Delegation, are repeated below.

Any matter in which the officer who would otherwise have delegated authority to act is aware that a councillor (or a person, company or organization with which the councillor is involved) has a personal interest under the Council's Member Code of Conduct.

Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest.

Any matter which in the opinion of the Executive Director for Community Services, 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.

Signed

\_\_\_\_\_  
Aileen Buckton  
Executive Director for Community Services

\_\_\_\_\_  
Date:

## **The Directorate of Customer Services Scheme of Delegation**

### **1. Purpose**

- 1.1 The Customer Services Directorate Scheme of Delegation sets out the post titles of those officers whom the Executive Director for Customer Services has nominated to take decisions on areas from the Council and Mayoral Schemes of Delegation where responsibility has been delegated to the Executive Director for Customer Services
- 1.2 This revised Scheme of Delegation comes into operation from 26 November 2009 and will remain in force until it is amended or revoked by the Executive Director for Customer Services or via changes to the Council and Mayoral Schemes of Delegation
- 1.3 The purpose of the Customer Services Directorate scheme of delegation is to be clear about which officer has been nominated to make delegated decisions within this directorate.
- 1.4 The scheme is subject to the Council's Constitution, the Council and Mayoral Schemes of Delegation, Financial Regulations and Standing Orders.
- 1.5 Heads of Service will continue to be responsible for running their own services and taking decisions in line with their service requirements unless specifically required in this scheme of delegation or determined by the Executive Director for Customer Services to seek other agreement.
- 1.6 Some decisions in this scheme of delegation will still be required to be taken directly by the Executive Director for Customer Services, in their absence they will nominate an appropriate officer/s to assume these responsibilities but unless otherwise notified the following nominations will apply:
  - Directorate financial decisions – Head of Business Management and Service Support
  - Acts under authority delegated to the Executive Director for Customer Services in his/her absence - Head of Business Management and Service Support (unless specifically delegated to a Head of Service)
  - Contract matters – Head of Business Management and Service Support
- 1.7 Where the word 'nominee' is used the nomination is to be made by the post holder referred to, in writing, and a record of all such nominations within the directorate must be kept in the directorate and be available for inspection at any time.

- 1.8 Where power is delegated to the Executive Director, and officers are nominated by him/her, 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, as defined in Article 16 of the Constitution of the London Borough of Lewisham, the law requires them to comply with the prevailing access to information regulations. In addition, for key executive decisions which are to be taken by officers individually, the Chief Executive may, from time to time, 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 procedures as stated in the Financial Regulations.

## 2. Scheme of Delegation

Unless required otherwise by law, the Constitution, The Council and Mayoral Scheme of Delegation or this Scheme of Delegation, the Executive Director for Customer Services nominates the following post holders to make the decisions set out in the table below as listed.

### Mayoral Areas of Delegation

Area of delegation	Officer with delegated authority
Strategic oversight & monitoring of the overall directorate budget.	Head of Business Management and Service Support
Day to day control and monitoring of individual service budgets.	Budget holders
<p><b>Budget Virements</b></p> <p>A Budget Virement is a transfer of a budget from the purposes for which Council originally voted in setting the budget and Council Tax to another purpose.</p> <p><b>Revenue Budget Virements</b></p> <p><b>Within the Directorate</b></p>	
a) Up to £20k	Head of Service of

	advice of Group Finance Manager
b) Up to £100k	Head of Service on advice of Head of Business Management and Service Support
c) Up to £500k	Executive Director
<b>Cross Directorate</b>	
a) Up to £50k	Head of Business Management and Service Support on advice of Head of Service (and HOR CYP if it involves CYP)
b) Up to £500k	Executive Director for Resources & Regeneration
All revenue budget virements above these limits are reserved to Members	
<b>1.20.2 Capital Budget Virements (on the Council's Capital Programme)</b>	
Up to £500k	Executive Director for Resources & Regeneration
Over £500k	Members
<b>Budget Adjustments</b>	
A Budget Adjustment is a transfer of a budget from one cost centre to another whilst retaining the original purpose for which the budget was approved.	
Within the same Service area	Group Finance Manager
Across Service areas	Head of Service

<p>Any items that fall outside the above definitions must be referred to the Head of Business Management and Service Support for further clarification.</p>	
<p><b>Contracts</b></p> <p>There are three categories of contracts:-</p> <p><b>Category A</b> - 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).</p> <p><b>Category B</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).</p> <p><b>Category C</b>- All other contracts or arrangements with an estimated value of less than £40,000.</p> <p><b>Inviting Contracts</b></p> <p><b>Category A – By public advert</b></p> <p>Authorise the Approved List</p> <p>Waiver</p> <p><b>Category B – By public advert</b></p> <p>Authorise Approved List</p> <p>Waiver</p>	<p>Executive Director</p> <p>Mayor and Cabinet</p> <p>Executive Director</p> <p>Executive Director for Resources &amp; Regeneration</p>

<b>Category C - No approved list or waiver required</b>	Head of Service
<b>Receipt of Contracts</b>	
Category A	Chief Executive
Category B	Executive Director
Category C	Head of Service
<b>Opening Tender Envelopes (At least two officers)</b>	
Category A	Chief Executive or nominated officer and Officer approved by Executive Director for Resources & Regeneration/Head of Law
Category B	Executive Director or nominated officer and Officer approved by Executive Director for Resources & Regeneration
Category C	Two officers approved by Executive Director
<b>Award of Contract</b>	
Category A	Mayor and Cabinet
Category B (where the lowest price is not the most economically advantageous)	
£200k or more	Executive Director
Less than £200k	Head of Service on advice of Head of

<p>Category B (Where the lowest price is the most economically advantageous)</p> <p>£200k or more</p> <p>Less than £200k</p> <p>Category C</p> <p><b>Contract Signing</b></p> <p>£200k or more</p> <p>Less than £200k</p>	<p>Business Management Service Support</p> <p>Executive Director</p> <p>Executive Director or nominated officer with appropriate authorised spending level</p> <p>Head of Service</p> <p>Sealed by Head of Law</p> <p>Officer nominated by the Executive Director</p>
<p>Grants and Assistance to Voluntary Organisations</p> <p>Unless the law, the Constitution, or the Mayoral 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 :-</p>	
<p>(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 moneys worth does not exceed £10,000</p>	<p>Executive Director</p>
<p>(b) the power to reduce or withdraw a grant or other assistance, and the power to award a grant or give other assistance to a voluntary organisation (irrespective of the value of the grant or</p>	<p>Executive Director</p>

<p>assistance) within their area of responsibility if the value of the change in grant is no more than 10% or £5,000, (whichever is the greater), than the grant awarded in the previous year.</p>	
<p><b>Application for External Funding</b></p> <p>Approval of any application for external funding which is below £1 million with no match funding implications.</p> <p>Note: All other applications must be approved by Members. Before submitting a report to Mayor and Cabinet to seek approval to bid for funding, an initial agreement to proceed <b>must</b> be sought from the Directorate Project Review Group or Corporate project Board as appropriate.</p>	<p>Executive Director on advice of Head of Business Management and Service Support.</p>
<p><b>Parking Control</b></p>	<p>Executive Director of Customer Services</p>
<p><b>Subscriptions</b> - affiliations to and payment of subscriptions to outside bodies up to a maximum of £25,000 per annum.</p> <p>a) Within own area of responsibility up to £5k</p> <p>b) Above £5k up to £25k</p>	<p>Head of Service</p> <p>Executive Director (or in their absence the Head of Business Management and Service Support)</p>
<p><b>Bad Debt Write Off</b></p> <p>Recommendation for write-off of bad debts (excluding housing rents) to the Executive Director for Resources &amp; Regeneration (up to £50,000) or the Mayor (£50,000 and over)</p> <p>Write off of Housing rent debts up to £10,000</p>	<p>Head of Business Management and Service Support (see Resources Scheme of Delegation)</p> <p>Executive Director or the Executive Director for</p>

	Resources & Regeneration
Write off of non land and building assets  Write off up to £20,000	Heads of Service on advice of Group Finance Manager.
<p><b>Housing</b> - the housing management function shall include but not be limited to;</p> <ul style="list-style-type: none"> <li>• the maintenance and management of all land and property held by the Council for housing purposes;</li> <li>• the provision of garden, open spaces and land for housing purposes,</li> <li>• 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 Regeneration),</li> <li>• responsibility for the management of the Housing Revenue Account and other revenue resources ensuring effective financial control of resources and the achievement of value for money, subject always to the approval of the Executive Director Resources in relation to decisions about the allocation of funds and expenditure to the Housing Revenue Account and General Fund.</li> <li>• dealings with housing associations, save to the extent that such decisions relate to housing development or capital schemes, which are delegated to the Executive Director Resources.</li> <li>• responsibility for setting charges for heat, light and power to Council properties served by a communal supply in accordance with policies approved by the Mayor.</li> </ul>	<p>Head of Strategic Housing</p> <p>Head of Strategic Housing Head of Strategic Housing</p> <p>Head of Business Management and Service Support</p> <p>Head of Strategic Housing</p> <p>Head of Business Management and Service Support</p>
<p><b>Housing</b> – the housing function shall include but not be limited to;</p> <ul style="list-style-type: none"> <li>• housing strategy and development,</li> <li>• housing need and homelessness including private sector housing, housing partnerships and</li> <li>• environmental health (housing).</li> </ul>	Head of Strategic Housing

<b>Revenues &amp; Benefits</b> - all executive functions relating to the administration of revenues and benefits (Council Tax, NNDR and Housing Benefits), its one stop shop service, call centre services and cashiers.	Head of Public Services
<b>Registration</b> of births, deaths and marriages	Head of Public Services
<b>Business Continuity</b> - Responsibility for the corporate emergency planning and business continuity functions	Head of Public Services
<b>Business and Regulatory Services</b> – The business and regulatory services functions shall include but not be limited to:  Building Control, Licensing	Head of Strategic Housing
<b>Environment - The Environment function shall include, but not be limited to:</b>  Environmental Matters, Consumer Protection, Trading Standards, Environmental Health, Environmental Enforcement Public Health, Food Safety, Health and Safety, Burial and Cremation, Refuse, Waste Management, Parks and Community Services, Community Hygiene, Animal Welfare Pest Control, Street Trading, Fleet Services and Passenger Transport	Head of Environment
<b>Housing Benefit Overpayments</b>	
<b>Applications for judgement</b>	Overpayments Manager
<b>Employment Matters</b> All employment matters relating to the Directorate, including recruitment, appointments, pay, pensions, disciplinary, grievance, trades union negotiations and reorganisations involving less than 200 staff	Relevant Heads of Service

### Council (Non-Executive) Areas of Delegation

Area of delegation	Officer with delegated authority
<p><b>Non-Executive Building Control matters:</b></p> <p>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 of delegation in relation to non-Executive Building Control matters, 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: -</p> <ul style="list-style-type: none"> <li>• Determining applications, (or declining to determine applications where applicable), for building control approval.</li> <li>• Issuing enforcement notices, and other similar notices and questionnaires</li> <li>• Issuing notices and orders in relation to building control</li> <li>• 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</li> <li>• Carrying out any other regulatory enforcement functions and building control contained in legislation in force from time to time</li> <li>• 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</li> <li>• Removal of nuisance deposits on the highway</li> <li>• Dealing with applications for street works licences</li> </ul>	<p>Service Group Manager – Private Sector Housing and Regulatory Services</p>
<p><b>Non-executive Licensing matters from Licensing (Supplementary)Committee:</b></p> <p>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 of Delegation from the</p>	<p>Service Group Manager – Private Sector Housing and Regulatory Services</p>

<p>Licensing (Supplementary) Committee, 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. Nothing in this schedule prevents the Licensing (Supplementary) Committee exercising functions within their terms of reference.</p>	
--	--

**Please refer to the Council Scheme of Delegation for all other matters reserved to the Licensing Committee and Licensing Sub-Committee.**

### **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 Children's Services and the Director of Adult Services).

### **3. Exemptions**

The Mayoral Scheme of Delegation states that authority to exercise executive functions and make executive decisions is delegated to officers, except where there is an exemption to the contrary. Where such an exemption exists, the general rule is that those decisions will be made by the Mayor individually, in consultation with his colleagues in the Executive. Officers should refer to the Mayoral Scheme of Delegation; to Section I and Table 1 for general exemptions and to Section L and Table 4 for exemptions specific to Customer Services. Exemptions which may override delegated authority to officers to make decisions, as detailed in Section 2 of the Customer Services Scheme of Delegation, are repeated below.

1. Any matter in which the officer who would otherwise have delegated authority to act is aware that a councillor (or a person, company or organization with which the councillor is involved) has a personal interest under the Council's Member Code of Conduct.
2. Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest.

Any matter which in the opinion of the Executive Director for Customer Services, 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.

Signed

\_\_\_\_\_ ]

Executive Director for Customer Services

\_\_\_\_\_

Date

### **The Directorate for Resources and Regeneration Scheme of Delegation**

#### **1. Purpose**

- 1.1 The Resources and Regeneration Directorate scheme of delegation sets out the post titles of those officers whom the Executive Director for Resources & Regeneration has nominated to take decisions where responsibility has been delegated to the Executive Director for Resources & Regeneration by the Mayoral Scheme of Delegation.
- 1.2 This Scheme of Delegation comes into operation from 26 November 2009 and will remain in force until it is amended or revoked by the Executive Director for Resources & Regeneration or via changes to the Mayoral Scheme of Delegation.
- 1.3 The purpose of the Resources Directorate scheme of delegation is to be clear about which officer has been nominated to make delegated decisions within this directorate.
- 1.4 The scheme is subject to the Council's Constitution, the Mayoral Scheme of Delegation, Financial Regulations and Contract Procedure Rules.
- 1.5 Heads of Service will continue to be responsible for running their own services and taking decisions in line with their service requirements unless specifically required in this scheme of delegation or determined by the Executive Director for Resources & Regeneration to seek other agreement.
- 1.6 Some decisions in this scheme of delegation will still be required to be taken directly by the Executive Director for Resources & Regeneration or the Head of Law, in their absence they will nominate an appropriate officer/s to assume these responsibilities but unless otherwise notified the following nominations will apply:

- Council-wide Section 151 financial decisions – Head of Business Management and Service Support deputy S151 officer
  - Planning – Head of Planning in relation to all Town & Country planning matters
  - Property & Programme matters – Director of Programme Management & Property.
  - Legal decisions – Head of Law or Deputy Monitoring Officer/Principal Lawyers as appropriately nominated by the Head of Law
  - Corporate Personnel/Human Resources decisions - Head of Personnel and Development
- 1.7 Where the word ‘nominee’ is used, the nomination is to be made by the post holder referred to, in writing, and a record of all such nominations within the directorate must be kept in the directorate and be available for inspection at any time.
- 1.8 Where power is delegated to the Executive Director, and officers are nominated by him/her 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, as defined in Article 16 of the Constitution of the London Borough of Lewisham, 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 may, from time to time, 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 procedures as stated in the Financial Regulations.

### Delegations

Unless required otherwise by law, the Constitution, the Council and Mayoral Scheme of Delegation or this Scheme of Delegation, the Executive Director for Resources & Regeneration nominates the following post holders to make the decisions set out in the table below as listed.

Area of delegation	Officer with delegated authority or their nominee
Day to day control and regulation of the Council's finances.	Executive Director for Resources & Regeneration
Overall co-ordination of council wide revenue and	Head of Business

<p>capital budget monitoring.</p> <p>Council wide accounting policies.</p> <p>Strategic oversight and monitoring of the overall directorate budget.</p> <p>Day to day control and monitoring of individual service budgets.</p>	<p>Management and Service Support as deputy S151 officer</p> <p>Head of Business Management and Service Support</p> <p>Head of Business Management and Service Support</p> <p>Budget holders</p>
<p><b>Budget Virements</b></p> <p>A Budget Virement is a transfer of a budget from the purposes for which Council originally voted in setting the budget and Council Tax to another purpose.</p> <p><b>Revenue Budget Virements</b></p> <p>Within the Directorate</p> <p>a) Up to £20k</p> <p>b) Up to £100k</p> <p>c) Up to £500k</p> <p><b>Cross Directorate</b></p> <p>a) Up to £50k</p>	<p>Head of Service on advice of Group Finance Manager</p> <p>Head of Service on advice of Head of Business Management and Service Support</p> <p>Executive Director</p> <p>Head of Service (and Head of Resources for CYP virements).on advice of Head of Business Management and Service</p>

<p>b) Up to £500k</p> <p>All budget virements above these limits are reserved to Members</p> <p><b>1.20.3 Capital Budget Virements (on the Council's Capital Programme)</b></p> <p>Up to £500k</p> <p>Over £500k</p> <p><b>Budget Adjustments</b></p> <p>A Budget Adjustment is a transfer of a budget from one cost centre to another whilst retaining the original purpose for which the budget was approved.</p> <p>Within the same Service area</p> <p>Across Service areas</p> <p>Any items that fall outside the above definitions must be referred to the Head of Business Management and Service Support for further clarification</p>	<p>Support</p> <p>Executive Director for Resources &amp; Regeneration</p> <p>Executive Director for Resources &amp; Regeneration</p> <p>Members</p> <p>Group Finance Manager</p> <p>Head of Service on advice of Group Manager</p>
<p><b>Contracts</b></p> <p>There are three categories of contracts:-</p> <p><b>Category A</b> - 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).</p>	

<p><b>Category B</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).</p>	
<p><b>Category C</b>- All other contracts or arrangements with an estimated value of less than £40,000.</p>	
<p><b>Inviting Contracts</b></p>	
<p><b>Category A – By public advert</b></p>	
<p>Authorise the Approved list</p>	<p>Executive Director for Resources &amp; Regeneration on advice of Head of Law</p>
<p>Waiver</p>	<p>Mayor and Cabinet</p>
<p><b>Category B – By public advert</b></p>	
<p>Authorise Approved List</p>	<p>Executive Director</p>
<p>Waiver</p>	<p>Executive Director for Resources &amp; Regeneration</p>
<p><b>Category C</b> - No approved list or waiver required</p>	<p>Head of Service</p>
<p><b>Receipt of Contracts</b></p>	
<p>Category A</p>	<p>Chief Executive</p>
<p>Category B</p>	<p>Executive Director</p>
<p>Category C</p>	<p>Head of Service</p>
<p><b>Opening Tender Envelopes (At least two officers must be present)</b></p>	
<p>Category A</p>	<p>Chief Executive or nominated officer and Officer approved by Executive Director for Resources &amp; Regeneration/Head of Law</p>

Category B	Executive Director or nominated officer and Officer approved by Executive Director for Resources & Regeneration
Category C	Two officers approved by Executive Director
<b>Award of Contract</b>	
Category A	Mayor and Cabinet
Category B (where the lowest price is not the most economically advantageous)	
£200k or more	Executive Director
Less than £200k	Head of Service on advice of Head of Business Management Service Support
<b>Category B (where the lowest price is most economically advantageous)</b>	
<b>£200k or more</b>	
<b>Less than £200k</b>	Head of Service
Category C	
<b>Contract Signing</b>	
£200k or more	Sealed by Head of Law

Less than £200k	Officer nominated by the Executive Director for Resources & Regeneration
<p><b>Capital Finance Regulations</b></p> <p>To make decisions to earmark the proceeds of sale from asset disposals for expenditure on in/out schemes under the Local Authorities (Capital Finance) Regulations 1997 as amended, including (without limitation) regeneration projects and replacement of asset schemes subject to the approval of the schemes themselves having previously been approved by the Executive or the Executive Director for Resources &amp; Regeneration under delegated powers.</p>	Executive Director for Resources & Regeneration
<p><b>Insurance arrangements</b></p> <p>Power to agree insurance arrangements where either</p> <p>(a) the value of the premium payable does not exceed £2.5 million or</p> <p>(b) the renewal premium payable does not exceed the last year's premium by more than 10%</p>	<p>Executive Director for Resources &amp; Regeneration</p> <p>Executive Director for Resources &amp; Regeneration</p>
<p><b>Energy contracts</b></p> <p>Power to award energy and water contracts for up to three years, provided that</p> <p>a) the additional cost of green electricity over brown does not exceed 5% per unit, or</p> <p>b) the price per unit has not increased by more than 50% in the last year</p>	Executive Director for Resources & Regeneration
<p><b>Treasury Management.</b></p> <p>In so far as they are executive decisions, matters delegated to the Executive Director for Resources &amp; Regeneration in accordance with the Council's Treasury Management Strategy from time to time.</p>	Head of Business Management and Support Services or Group Manager Capital and Treasury

<p><b>Grants and Assistance to Voluntary Organisations</b></p> <p>Unless the law, the Constitution, or the Mayoral 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:-</p>	
<p>(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 moneys worth does not exceed £10,000</p>	Executive Director for Resources & Regeneration
<p>(b) the power to reduce or withdraw a grant or other assistance, and the power to award 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 cash value of the change in grant is no more than 10% or £5,000, (whichever is the greater), than the grant awarded in the previous year.</p>	Executive Director for Resources & Regeneration
<p><b>Application for External Funding</b></p> <p>Approval of any application for external funding which is below £1 million with no match funding implications.</p> <p>Note: All other applications must be approved by Members. Before submitting a report to Mayor and Cabinet to seek approval to bid for funding, an initial agreement to proceed <b>must</b> be sought from the Directorate Project Review Group or Corporate project Board as appropriate.</p>	Executive Director for Resources & Regeneration or Head of Business Management and Support Services
<p><b>Subscriptions</b> - affiliations to and payment of subscriptions to outside bodies up to a maximum</p>	

<p>of £25,000 per annum.</p> <p>Within own area of responsibility up to £5k</p> <p>Above £5k up to £25k</p>	<p>Head of Service</p> <p>Executive Director for Resources &amp; Regeneration</p>
<p><b>Bad Debt Write Off</b></p> <p>Unless the law, the Constitution, or the Mayoral Scheme of Delegation require otherwise, the following executive powers are delegated to the officers in relation to bad debt:-</p> <p>Save in relation to housing rent arrears, the Executive Director for Resources &amp; Regeneration 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 &amp; Regeneration. In such cases the power is reserved to members.</p> <p>Authority is delegated to both the Executive Director for Customer Services and the Executive Director for Resources &amp; Regeneration 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.</p> <p><b>Recommendation</b> of write-off of bad debts to the Executive Director for Resources &amp; Regeneration.</p>	<p>Executive Director for Resources &amp; Regeneration</p> <p>Executive Directors for Customer Services and Resources in relation to bad debt on rent arrears up to £10,000.</p> <p>Head of Business Management and Service Support</p>
<p><b>Write off of non land and building assets</b></p> <p>Write off up to £20,000</p>	<p>Head of Service on advice of Head of Business Management and Service Support</p>
<p><b>Employment Matters</b></p> <p>In so far as employment matters are delegated to the Executive Director for Resources &amp; Regeneration and not reserved to members.</p>	

<p>1)All matters relating to employment procedures and processes other than the following items:</p> <p>a)JNC matters b)matters relating to posts above PO9 c)the award/maintenance of market supplements</p>	<p>Head of Personnel and Development.</p> <p>Chief Executive and/or Executive Director for Resources &amp; Regeneration</p>
<p><b>Bidding for External Work</b></p> <p>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 &amp; Regeneration. 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.</p>	<p>Chief Executive/ Executive Director for Resources &amp; Regeneration/Head of Law</p>
<p><b>Delegation to the Head of Law</b></p> <p>a) The Head of Law has delegated authority to initiate, conduct and defend all proceedings brought by or against the Council in any court, Tribunal or Arbitration</p> <p>b) 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.</p> <p>c) 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 &amp; Regeneration 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.</p> <p>d) The Head of Law has delegated authority to act as the proper officer for those purposes listed in Table 6 of the Mayoral Scheme of Delegation</p>	<p>Head of Law</p> <p>Head of Law</p> <p>Head of Law</p> <p>Head of Law</p>

<p><b>Urban Regeneration</b> - The urban regeneration function shall include but not be limited to:</p> <ul style="list-style-type: none"> <li>a) Urban regeneration (in so far as initiatives do not fall within the remit of another Executive Director).</li> <li>b) 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 achievement of value for money, subject always to the approval of the Executive Director for Resources &amp; Regeneration in relation to decisions about the allocation of funds and expenditure.</li> <li>c) The provision &amp; estate management of travellers' sites.</li> <li>d) Responsibility for matters relating to housing associations to the extent that such decisions relate to housing development and capital schemes.</li> </ul>	<p>Director of Regeneration &amp; Asset Management</p>
<p><b>Planning and Economic Development – The Planning and Economic Development functions shall include but not be limited to:</b></p> <ul style="list-style-type: none"> <li>a) Town Planning and Economic Development.</li> <li>b) The encouragement and development of employment and training opportunities and facilities.</li> </ul>	<p>Head of Planning</p>
<p><b>Transport - The Transport function shall include, but not be limited to:</b></p> <p>Traffic Management and Regulation, Highways, Transport Planning, promotion of new projects and initiatives relating to the service area.</p>	<p>Director of Regeneration &amp; Asset Management</p>

--	--

<p><b>PROPERTY</b></p> <p><b>A) ACQUISITIONS</b>  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 and agreement by Asset Management Board and where the estimated capital value of the property does not exceed £500,000.</p> <p>Authority for the Council to take leases, licences, tenancies, wayleaves or easements (including renewal) of land and property subject to agreement by Asset Management Board where the estimated value does not exceed £50,000 p.a.</p>	<p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p>
<p><b>B) MANAGEMENT</b></p> <p>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.</p> <p>1) The grant (including renewal) of leases, licences or tenancies of all Council owned land and property for a rental or licence fee reflecting market value</p> <p>2) The grant (including renewal) of wayleaves or easements over or affecting Council owned land and property, including licences of advertisement hoardings.</p> <p>3) The approval of rent or fee reviews of leases, licences, tenancies, wayleaves or easements granted or held by the Council.</p> <p>4) The alteration or waiver of terms and conditions</p>	<p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p> <p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p> <p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p> <p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p>

<p>of leases, licences, tenancies, wayleaves or easements granted or held by the Council.</p>	<p>of Law or her nominee</p>
<p>5) 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.</p>	<p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p>
<p>6) 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.</p>	<p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p>
<p>7) The approval of the terms for the settlement of any claim for dilapidations or other breaches of covenants in respect of land and property granted or held etc subject to necessary financial provision.</p>	<p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p>
<p>8) The authorisation of service of notices under all legislation relating to Council land ownership</p>	<p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p>
<p>9) The instigation of 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.</p>	<p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p>
<p>10) The authorisation of the levying of distress against occupants of land and property in arrears where the Executive Director for Regeneration is of the opinion that it is appropriate to do so</p>	<p>Director of Regeneration &amp; Asset Management (or his nominee) on advice of Head of Law or her nominee</p>

<p><b>1.20.4 C) Declaring Property Surplus</b></p> <p>1) 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 Resources &amp; 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 disposal value of the property does not exceed £500,000.</p> <p>2) If a property no longer required for use by a Directorate is required for an alternative use, the Executive Director for Resources &amp; Regeneration, having first informed ward members for the ward in which the property is situated, may authorise its appropriation to the new use and the book value at the time of change of use, for capital charge purposes</p> <p>3) If in the view of the Executive Director for Resources &amp; Regeneration, a property ought to be disposed of notwithstanding a proposed alternative use, the matter shall be referred to the Executive for decision, ward members having first been informed as above.</p>	<p>Executive Director for Resources &amp; Regeneration or Director of Regeneration &amp; Asset Management in his/her absence.</p> <p>Executive Director for Resources &amp; Regeneration or Director of Regeneration &amp; Asset Management in his/her absence.</p> <p>Executive Director for Resources &amp; Regeneration or Director of Regeneration &amp; Asset Management in his/her absence.</p>
<p><b>1.21 D) DISPOSAL</b></p> <p>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</p>	

Ministerial Consents being obtained.	
<p>1) Following the decision to dispose, 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 Resources &amp; Regeneration acting under delegated authority, where the sale is by way of formal or informal tender or public auction and the estimated value or agreed sale price does not exceed £500,000.</p>	<p>Director of Regeneration &amp; Asset Management on advice of the Head of Law or their nominee</p>
<p>2) 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 Resources &amp; Regeneration acting under delegated authority, where the sale is by way of private treaty or to a special purchaser.</p>	<p>Director of Regeneration &amp; Asset Management on advice of the Head of Law or their nominee where the estimated value or agreed sale price does not exceed £500,000.</p>
<p>3) The disposal of residential dwellings and agreement of sale terms where there is a legal obligation on the Council to sell where the sale price does not exceed £500,000.</p>	<p>Director of Regeneration &amp; Asset Management on advice of the Head of Law or their nominee</p>
<p>4)The approval of terms for the disposal of mortgage repossession properties, subject to the other relevant provisions of this paragraph (d).</p>	<p>Director of Regeneration &amp; Asset Management on advice of the Head of Law or their nominee</p>
<p>5)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 (d).</p>	<p>Director of Regeneration &amp; Asset Management on advice of the Head of Law or their nominee</p>
<p>6)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 (d). This is also subject all units having previously been sold and subject to the purchasers Solicitors confirming that</p>	<p>Director of Regeneration &amp; Asset Management on advice of the Head of Law or their nominee</p>

<p>suitable arrangements will be entered into by all parties regulating the future management of the whole block/building.</p> <p>7) Authority to take such action as is necessary in accordance with agreed procedures concerning the disposal of land or property.</p> <p>8) 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.</p>	<p>Director of Regeneration &amp; Asset Management on advice of the Head of Law or their nominee</p> <p>Director of Regeneration &amp; Asset Management on advice of the Head of Law or their nominee</p>
<p>E) Capital Finance Regulations</p> <p>The Executive Director of Resources and Regeneration will take decisions to earmark the proceeds of sale from asset disposals for expenditure on in/out schemes under the Local Authorities (Capital Finance and accounting) England Regulations 2003 as amended, including (without limitation) regeneration projects and replacement of asset schemes subject to the approval of the schemes themselves having previously been approved.</p>	<p>Executive Director for Resources &amp; Regeneration</p>
<p>(F) Property - General</p> <p>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.</p> <p>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.</p> <p>c) Authority to undertake and sign valuations for statutory or other Council purposes.</p>	<p>a) Head of Law/ Director of Regeneration &amp; Asset Management or his nominee</p> <p>b) Director of Regeneration &amp; Asset Management or his nominee</p> <p>c) Director of Regeneration &amp; Asset Management</p>

<p>d) The submission of planning applications.</p> <p>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</p> <p>f) To take such actions and incur such expenditure as is necessary to ensure the proper management of council <b>owned property</b>.</p>	<p>or his nominee</p> <p>d) Director of Regeneration &amp; Asset Management or his nominee</p> <p>e) Director of Regeneration &amp; Asset Management or his nominee</p> <p>f) Director of Regeneration &amp; Asset Management or his nominee</p>
<p>Employment Matters All employment matters relating to the Directorate, including recruitment, appointments, pay, pensions, disciplinary, grievance, trades union negotiations and reorganisations involving less than 200 staff.</p>	<p>Head of Service</p>

### Council (Non-Executive) Areas of Delegation

Area of delegation	Officer with delegated authority
<p><b>Non-executive Planning and Highways Matters</b></p> <p>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: -</p> <ul style="list-style-type: none"> <li>• 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,</li> </ul>	<p>Head of Planning</p> <p>Head of Planning</p>

<p>environmental impact assessment screening and scoping opinions, decisions in respect of the prior approval procedure for telecommunication development.</p>	
<ul style="list-style-type: none"> <li>• Issuing planning contravention notices, breach of condition notices, enforcement notices, stop notices, temporary stop notices, untidy land notices and other similar notices and questionnaires.</li> </ul>	Head of Planning
<ul style="list-style-type: none"> <li>• Making and confirming tree preservation orders and enforcing their provisions.</li> </ul>	Head of Planning
<ul style="list-style-type: none"> <li>• Taking action in relation to unauthorised advertisements, placards or posters.</li> </ul>	Head of Planning
<ul style="list-style-type: none"> <li>• 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).</li> </ul>	Head of Planning
<ul style="list-style-type: none"> <li>• 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).</li> </ul>	Head of Planning
<ul style="list-style-type: none"> <li>• 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.</li> </ul>	Head of Planning
<ul style="list-style-type: none"> <li>• 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.</li> </ul>	Head of Planning
<ul style="list-style-type: none"> <li>• 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 in relation to the following:-</li> </ul>	Head of Planning

<ul style="list-style-type: none"> <li>• Creating, diverting and stopping up footpaths, highways and bridleways</li>   <li>• The making and enforcement of road traffic regulation and highways orders.</li>   <li>• Dealing with applications for street works licences</li>   <li>• 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).</li>   <li>• Exercise of powers under Part 8 of the Anti-social Behaviour Act 2003 in relation to high hedges</li> </ul> <p>Please refer to the Council's Scheme of Delegation for Schedule (non-exhaustive) of relevant statutes (in so far as they relate to non-executive highways and planning matters).</p> <p>Nothing in this Schedule of Delegation prevents any Planning Committee or the Strategic Planning Committee exercising any function within their terms of reference.</p> <p>The Committee may from time to time delegate to officers such functions as it considers appropriate.</p>	<p>Director of Regeneration &amp; Asset Management or his nominee</p> <p>Director of Regeneration &amp; Asset Management</p> <p>Director of Regeneration &amp; Asset Management</p> <p>Director of Regeneration &amp; Asset Management</p> <p>Director of Regeneration &amp; Asset Management</p>
---	---

## Exemptions

The Mayoral Scheme of Delegation states that authority to exercise executive functions and make executive decisions is delegated to officers, except where there is an exemption to the contrary. Where such an exemption exists, the general rule is that those decisions will be made by the Mayor individually, in consultation with his colleagues in the Executive. Officers should refer to the Mayoral Scheme of Delegation; to Section I and Table 1 for general exemptions, and to Section M and Table 5 for exemptions specific to the Resources Directorate. Exemptions which may override delegated authority to officers to

make decisions, as detailed in Section 2 of the Resources Directorate of Delegation, are repeated below.

Any matter in which the officer who would otherwise have delegated authority to act is aware that a councillor (or a person, company or organization with which the councillor is involved) has a personal interest under the Council's Member Code of Conduct.

Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest.

Signed

---

Janet Senior  
Executive Director for Resources & Regeneration  
Date:

## **APPENDIX 1**

### **Exempt & Confidential Information**

**(Schedule 12A of the Local Government Act 1972)**

**APPENDIX 1 – (Schedule 12A of the Local Government Act 1972)****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 (as defined in Section 2 of the Companies Act 2006);
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;

- (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 2011.
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 1 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

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**

**APPENDIX 2**  
**Petition Scheme**

**APPENDIX 2****LONDON BOROUGH OF LEWISHAM  
PETITION SCHEME****1. INTRODUCTION**

- 1.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 14 days of receipt. This acknowledgement will set out what we plan to do with the petition.

Paper petitions can be sent to :-

The Head of Governance Support, Council's main offices, Catford, SE6 4RU

Or be created, signed and submitted on line by following this link

<http://lewisham-consult.limehouse.co.uk/portal/petitions>

- 1.2 Petitions can also be presented to a meeting of the Council. These meetings usually take place eight times a year. Dates and times can be found here:

<http://councilmeetings.lewisham.gov.uk/mgCalendarMonthView.aspx?GL=1&bcr=1> .

If you would like to present your petition to the Council, or would like your Councillor to present it on your behalf, please contact the Head of Governance Support on 020 8314 9327 at least 5 working days before the meeting and they will talk you through the process.

**2. WHAT ARE THE GUIDELINES FOR SUBMITTING A PETITION ?**

- 2.1 Petitions submitted to the Council must include:-

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners would like the Council to take.
- The name, address and signature of any person supporting the petition.

- 2.2 Petitions should be accompanied by contact details, including an address for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the

petition organiser will not be placed on the Council's website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

- 2.3 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case we will write to you to explain the reasons.
3. WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?
- 3.1 We will send an acknowledgement to the petition organiser within 14 days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.
- 3.2 If the Council can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.
- 3.3 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected Mayor), or on a matter where there is already an existing right of appeal such as Council Tax banding and non domestic rates, other procedures apply. If you require information on any of these matters you should in the first instance contact the Head of Governance Support, London Borough of Lewisham, Council's main offices, Catford SE6 4RU [020 8314 9327 [committee@lewisham.gov.uk](mailto:committee@lewisham.gov.uk)].
- 3.4 We will not take any action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.
- 3.5 To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (with personal details removed). When you sign an e-petition you can choose to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed unless you request it.

4. HOW WILL THE COUNCIL RESPOND TO PETITIONS?
- 4.1 Our response to a petition will depend on what a petition asks for and how many people have signed it but may include one or more of the following:-
- 4.2
- Taking the action requested in the petition
  - Considering the petition at a Council meeting
  - Holding an enquiry into the matter
  - Undertaking research into the matter
  - Holding a public meeting
  - Holding a consultation
  - Holding a meeting with petitioners
  - Referring the petition for consideration by a relevant Council Overview and Scrutiny Select Committee \* or Business Panel \*\*
  - Writing to the petition organiser setting out our views about the request in question
- 4.3 \* Overview and Scrutiny Select Committees are Committees of councillors who are responsible for scrutinising the work of the Council – in other words they have the power to hold the Council’s decision makers to account.
- 4.4 \*\* Business Panels are Committees of councillors consisting mainly of the Chairs and Vice Chairs of Overview and Scrutiny Select Committees. They have the power to hold Council decision makers to account where the issue is within the remit of more than one Select Committee.
- 4.5 In addition to these steps the Council will consider other specific actions it may be able to take on the issues highlighted in a petition.
- 4.6 If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will aim to make representations on behalf of the community to the relevant body. The Council works with a large number of local partners <http://www.lewishamstrategicpartnership.org.uk> and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible here <http://www.lewisham.gov.uk/myservices/Pages/default.aspx?t=0>.

- 4.7 If your petition is about something that a different Council is responsible for, we will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

## 5. FULL COUNCIL DEBATES

- 5.1 If a petition contains more than 8,000 signatures it will be debated by the full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The petition organiser will be given 5 minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. If it is within their remit, the Council may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. If the matter relates to a decision which it is for the Mayor to make, then the Council may ask the Mayor to consider the matter or commission further investigation into the matter, for example by the relevant Overview and Scrutiny Select Committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website.

## 6. OFFICER EVIDENCE

- 6.1 Your petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example your petition may ask a senior Council officer to explain progress on an issue or to explain the advice given to elected members to enable them to make a particular decision.
- 6.2 If your petition contains at least 4,000 signatures the relevant senior officer will give evidence at a public meeting of the relevant Overview and Scrutiny Select Committee. If the subject matter of the petition falls within the remit of more than one Overview and Scrutiny Select Committee, the senior officer will give evidence at a public meeting of the Council's Business Panel. A list of the senior staff that can be called to give evidence can be found here :
- <http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/council-structure/Pages/management-structure-charts.aspx>
- You should be aware that the Overview and Scrutiny Select Committee or Business Panel may decide that it would be more appropriate for another officer on that list to give evidence instead of any officer named in the

petition – for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting but you will be able to suggest questions to the Chair of the Select Committee/Business Panel by contacting [committee@lewisham.gov.uk](mailto:committee@lewisham.gov.uk) up to 5 working days before the meeting.

## 7. E-PETITIONS

- 7.1 The Council welcomes e-petitions which are created and submitted through our website:

<http://www.lewisham.gov.uk/getinvolved/influence/Pages/Petitions.aspx> .

E-petitions must follow the same guidelines as paper petitions:

<http://www.lewisham.gov.uk/SiteCollectionDocuments/PetitionFullGuidance.pdf>.

The petition organiser will need to provide us with their name, postal address, post code and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for 6 months but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

- 7.2 When you create an e-petition, it may take 10 working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature. However we will make every effort to ensure that your petition is published as soon as possible.
- 7.3 If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and re-submit your petition if you wish. If you do not do this within 14 days, a summary of the petition and the reason why it has not been accepted will be published under the “Rejected Petitions” section of the website.
- 7.4 When an e-petition has closed for signature, it will automatically be submitted to The Head of Governance Support [committee@lewisham.gov.uk](mailto:committee@lewisham.gov.uk). In the same way as a paper petition you will receive an acknowledgement within 14 days. If you would like to present your e-petition to a meeting of the Council please contact The Head of Governance Support] (details above) within 5 days of the petition closing. A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement and response will also be published on this website.
8. HOW DO I SIGN AN E-PETITION?

- 8.1 You can see all the e-petitions currently available for signature here  
<http://lewisham-consult.limehouse.co.uk/portal/petitions>
- 8.2 When you sign an e-petition you will be asked to provide your name, address, post code and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your “signature” will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.
9. WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?
- 9.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council’s relevant Overview and Scrutiny Committee/Business Panel review the steps that the Council has taken in response to your petition. The Select Committee/Business Panel will consider your request within 30 days of receiving it. Should the Select Committee/Business Panel determine we have not dealt with your petition adequately it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendation to the Council’s Mayor and Cabinet and/or arranging for the matter to be considered at a meeting of the full Council.
- 9.2 Once the appeal has been considered, the petition organiser will be informed of the results within 7 days. The results of the review will also be published on our website.

## **APPENDIX 3**

### **Protocol for Recording Council Meetings**

**APPENDIX 3****LONDON BOROUGH OF LEWISHAM  
PROTOCOL FOR RECORDING COUNCIL MEETINGS**

1. This Protocol reflects the Openness of Local Government Bodies Regulations which make provision about the recording of Council proceedings held in public and are due to come into force on 31<sup>st</sup> July 2014. These regulations allow for contemporaneous reporting ( filming, audio, social media etc) at open Council meetings. The purpose of the Protocol is to set out how this will operate in practice in Lewisham. It is designed to balance the need for transparency with the rights of others present, especially other members of the public, to know that reporting may occur and enable them to make choices about how to respond.
- 2 The Protocol applies to all meetings held by the Council which are open to the public. This includes any meeting of the Council which the public may lawfully attend, such as Council meetings, committee meetings, sub-committee meetings, panels and boards Recording is not allowed during any part of meeting which is not open to the public.
- 3 While meetings are open to the public, any person who is present may report on that meeting as it takes place, provided they comply with the provisions of this Protocol.
- 4 Reporting may be by a number of means, including:-
  - (a) filming, photographing or making an audio recording of proceedings;
  - (b) reporting or providing commentary on proceedings, orally or in writing, so that the report or commentary is available either as the meeting takes place or later;
  - (c) other means to enable persons not present to see or hear the proceedings either as they occur, or later.
- 5 The Council will ensure, so far as practicable, that anyone attending an open meeting will be given reasonable facilities to carry out their reporting.
- 6 Anyone who wants to attend an open meeting to carry out reporting of all or part of that meeting must contact the Council's committee clerk who will be attending the meeting in advance. This is to make sure that appropriate arrangements may be made to facilitate the recording in a manner which is open, fair and provides an opportunity for any other persons attending

- to be made aware that proceedings may be recorded. Such prior contact with the committee clerk must take place before the meeting is opened.
7. If any person attending an open meeting tries to report on that meeting without having first contacted the committee clerk, then it shall be at the sole discretion of the Chair of the Committee meeting whether or not to allow that reporting to continue. The Chair's decision shall be final.
  8. The filming, videoing, photographing or other means of recording of open meetings must not disturb the conduct of the meeting and so may only take place from locations within the room as arranged with the committee clerk and agreed by the Chair.
  9. If during the meeting the Chair is of the view that any recording is disruptive or distracting to the good order and conduct of the meeting, then he/she may require that recording be stopped. The Chair's decision shall be final.
  10. To minimise disruption to others attending the meeting, everyone present must ensure that their phones and other mobile devices are either switched off or set to silent mode during the meeting.
  11. Should the press and public be excluded from any meeting or part of a meeting, then there may be no reporting/filming/ etc during the time that the press and public are excluded.
  12. Anyone who makes a visual recording shall be requested to focus their recording only on members, Council officers, and those members of the public who are directly involved / participating in the conduct of the meeting.
  13. At the beginning of a meeting which is open to the public, the Chair will inform everyone present that proceedings may be recorded by means of social media, audio recording, photographed and /or filmed. Notices will also be placed in the meeting room informing attendees of this. Meeting agendas will also carry this message.
  14. Members of the public who may not wish to be photographed and / or filmed will be asked to sit away from the area being photographed and / or filmed, wherever possible. Whilst the Council will take reasonable precautions to ensure that members of the public who do not wish to be photographed / filmed / recorded by anyone at a meeting are not filmed / photographed / recorded, ultimately the Council cannot offer complete assurance about this to anyone. Once the Chair has advised those present that recording may take place, it will be the responsibility of those

attending to choose whether they participate, where they sit, and whether they stay or leave.

# Agenda Item 10

Council			
REPORT TITLE	London LGPS Collective Investment Vehicle		
KEY DECISION	No	Item No:	
WARD	N/A		
CONTRIBUTORS	Executive Director for Resources & Regeneration		
CLASS	Part 1	Date:	17 September 2014

## 1. SUMMARY

- 1.1 This report makes recommendations for Council to approve Lewisham's membership into the London Local Government Pension Scheme (LGPS) Collective Investment Vehicle (CIV). This will be a UK based, Financial Conduct Authority (FCA) Authorised Contractual Scheme (ACS). It will act as an umbrella vehicle for the pension funds of all London boroughs to potentially invest capital alongside one another, in order to benefit from the increased size of the investment portfolio. However, the CIV will be set-up in such a way that Lewisham is under no obligation to make use of it.
- 1.2 The Pensions Investment Committee reviewed and agreed these proposals at their meeting on the 26 June 2014. Mayor and Cabinet reviewed the proposals (full report attached as Appendix 1), and approved Lewisham's membership into the ACS on 16<sup>th</sup> July 2014. The proposal is now being presented to Council for final decision.

## 2. RECOMMENDATION

- 2.1 Council is recommended to agree to:
- (1) the Council becoming a shareholder in the ACS Operator with the cost of doing so borne by the Pension Fund,
  - (2) to appoint a Lewisham member who will have power to act for the local authority in exercising its rights as a shareholder of the ACS Operator, and
  - (3) to agree that, in the event of London Councils appointing the Mayor or any other Lewisham councillor as an interim director of the ACS Operator pending authorisation by the FCA, to agree to that appointment. Interim directors may be replaced once FCA authorisation is formally applied for.

## 3. BACKGROUND

- 3.1 In June 2013, the Government issued a call for evidence on the future structure of the LGPS, and sought professional advice to consider either Collective Investment Vehicles or merger of funds as potential routes forward.

- 3.2 There was stronger evidence for the creation of a CIV as opposed to the merger of funds. With the help of London Councils, London Authorities started working on the idea of setting up a London CIV.
- 3.3 A number of the local authorities pension funds agreed to contribute £25-£50k towards exploring the proposal. This money is held in a designated fund by London Councils. Lewisham has yet to agree whether to make a contribution. These contributions will fund the professional costs associated with development of the proposed Authorised Contractual Scheme (ACS) and its Operator.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 So far 28 boroughs have said that they agree with the principle and that they are willing to pay £25,000 to pay for implementation measures. Lewisham would also make a contribution of £25,000, and the £1 initial share capital. Other than these costs, there are no immediate financial implications from accepting the recommendations of this report. The Council will still have its existing freedoms and obligations to invest its pension fund assets as it considers most appropriate, whether via the CIV proposed in this report or elsewhere.

#### **5. LEGAL IMPLICATIONS**

- 5.1. The Council is the administering authority for its LGPS Fund (the Scheme) and has the responsibility of exercising all functions in relation to the Scheme under the Superannuation Act 1972 and all other relevant pensions legislation including the overall investment strategy and policies of the Fund. The Council has delegated the discharge of these functions to the Pension and Investment Committee.
- 5.2. The Pensions CIV Joint Committee is a joint sub-committee of London Councils which is itself a joint committee. The relevant powers to set up this joint committee and the sub-committee are contained within sections 101 and 102 of the Local Government Act 1972 which enables local authorities to discharge their functions jointly. London Councils can set up a sub-committee to discharge any of its functions under its terms of reference.
- 5.3. The CIV can be set up as a company using the powers in Section 1 and 4 of the Localism Act 2011 which enables local authorities to set up the company and trade for commercial return. As stated in this Report, the CIV will be subject to the regulatory control of the Financial Conduct Authority.
- 5.4. Once established, the CIV will be accountable to the Pensions and Investment Committee in the same way as its other Investment Managers and it will be for this Committee to determine, upon review of the company's performance, if and how much to invest in the vehicle, subject to proper independent advice
- 5.5. If the Council does determine to invest in the CIV, then such investment will be subject to the Council's published Statement of Investment Principles, ( which itself will need amending to reflect the establishment of the CIV) and the relevant investment thresholds prescribed in the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009, as amended which set limits on the percentage of the fund which can be invested in different types of investment.

**6. CRIME AND DISORDER IMPLICATIONS**

6.1 There are no crime and disorder implications directly arising from this report.

**7. EQUALITIES IMPLICATIONS**

7.1 No direct equalities implications have been identified.

**8. ENVIRONMENTAL IMPLICATIONS**

8.1 There are no environmental implications directly arising from this report.

**FURTHER INFORMATION**

If there are any queries on this report or you require further information, please contact:

David Austin, Head of Corporate Resources on 020 8314 9114, or  
Adeola Odeneye Principal Accountant Strategic Finance on 020 8314 6147

<b>Mayor and Cabinet</b>			
<b>REPORT TITLE</b>	<b>London LGPS Collective Investment Vehicle</b>		
<b>KEY DECISION</b>	No	<b>Item No:</b>	
<b>WARD</b>	N/A		
<b>CONTRIBUTORS</b>	Executive Director for Resources & Regeneration		
<b>CLASS</b>	Part 1	<b>Date:</b>	16 <sup>th</sup> July 2014

## 1. SUMMARY

- 1.3 This report provides Mayor and Cabinet with a background to the London Local Government Pension Scheme (LGPS) Collective Investment Vehicle (CIV). This will be a UK based, Financial Conduct Authority (FCA) Authorised Contractual Scheme (ACS). It will act as an umbrella vehicle for the pension funds of all London boroughs to potentially invest capital alongside one another, in order to benefit from the increased size of the investment portfolio. However, the CIV will be set-up in such a way that Lewisham is under no obligation to make use of it.
- 1.4 The Pensions Investment Committee reviewed and agreed these proposals at their meeting on the 26 June. The Mayor and Cabinet will now need to approve Lewisham's membership into the ACS and present the recommendation to full Council for final decision.

## 2. RECOMMENDATION

- 2.1 Mayor and Cabinet is recommended to agree to:
- (1) the Council becoming a shareholder in the ACS Operator,
  - (2) appoint an elected Councillor who will have power to act for the local authority in exercising its rights as a shareholder of the ACS Operator, and
  - (3) that Councillors from the London Boroughs are appointed as interim directors of the ACS Operator, subject to the consent of their relevant authorities to the appointments. These directors may be replaced once FCA authorisation is formally applied for.

## 3. BACKGROUND

- 3.4 In June 2013, the Government issued a call for evidence on the future structure of the LGPS, and sought professional advice to consider either Collective Investment Vehicles or merger of funds as potential routes forward.

## APPENDIX 1: MAYOR AND CABINET REPORT ON THE CIV

- 3.5 According to Hymans Robertson; 'A CIV invests the capital supplied by its investors to produce an investment return. The subscribed capital is supplied by investors either as monetary amounts or by transferring existing assets into the vehicle. The CIV can be set up as a single pool of assets (including multiple asset categories) or as an umbrella arrangement which includes a number of sub-funds, each of which is usually specific to a particular asset class.'
- 3.6 The aim of setting up a CIV for London is to achieve similar financial gains to a merger, but without the disadvantages, such as loss of governance and control.
- 3.7 London Councils Leaders committee set up a small member/officer group, the Pensions Working Group (PWG), to work with London Councils to take forward further exploration of options for greater collaboration across London's 34 Pension Funds. In February 2014, the PWG presented to the Leaders Committee a progress report and business case for the next steps of a London LGPS CIV.
- 3.8 It was agreed at the meeting for the committee to recommend to each local authority which decided to participate that they resolve to agree:
- 3.8.1 (A) a private company limited by shares be incorporated to be the Authorised Contractual Scheme Operator (the "ACS Operator"), structured and governed as outlined in this report, and that the local authority agrees :-
- (i) to become a shareholder in the ACS Operator,
  - (ii) to contribute £1 to the ACS Operator as initial capital,
  - (iii) to appoint an elected Councillor who will have power to act for the local authority in exercising its rights as a shareholder of the ACS Operator, and
  - (iv) that Councillors from the London Boroughs are appointed as interim directors of the ACS Operator, subject to the consent of their relevant authorities to the appointments. These directors may be replaced once FCA authorisation is formally applied for.
- 3.8.2 (B) a representative body, in the form of a new sectoral joint committee (the "Pensions CIV Joint Committee"), is established (pursuant to the existing London Councils Governing Agreement, dated 13 December 2001 (as amended)) to act as a representative body for those local authorities that resolve, in accordance with 2(a) above, to participate in the Arrangement (or in the alternative, should all 33 London authorities resolve to participate, that Leaders' Committee exercise these functions and the Governing Agreement be varied accordingly).
- 3.8.3 (C) All London local authorities respond in writing to the London Councils Chief Executive, by 14 April 2014, or before the day of the local government elections (22 May 2014), to advise of their decisions regarding the matters set out at paragraphs 3.6.1 and 3.6.2 above.
- 3.9 Lewisham has not yet responded in writing to the London Councils Chief Executive.
- 3.10 A number of the local authorities agreed to contribute £25-£50k towards exploring the proposal. This money is held in a designated fund by London Councils. Lewisham has yet to agree whether to make a contribution. These contributions

## APPENDIX 1: MAYOR AND CABINET REPORT ON THE CIV

will fund the professional costs associated with development of the proposed Authorised Contractual Scheme (ACS) and its Operator.

- 3.11 A copy of the full report can be found on the following link:  
[http://www.londoncouncils.gov.uk/committees/agenda.htm?pk\\_agenda\\_items=5562](http://www.londoncouncils.gov.uk/committees/agenda.htm?pk_agenda_items=5562)

### 4. MAIN CONSIDERATIONS FOR THE CIV

- 4.1 The ACS will require an FCA regulated ACS Operator to be established. The board of directors and employees of this company will have overall responsibility for the operation of the ACS.
- 4.2 In broad terms, the proposed structure is that the participating boroughs will own all the share capital of the ACS Operator. Initially this will require minimal share capital (£1 per borough from those who wish to participate) but this capital requirement increase once the operator is authorised and investments are made in the ACS.
- 4.3 A new 'Pensions CIV Joint Committee' will be established to assist in the appointment of key directors of the ACS Operator, such as the Chairman and Chief Executive Officer. The Pensions CIV Joint Committee will comprise elected Councillors nominated by participating boroughs. Information will be provided regularly by the ACS Operator to investors in the ACS and borough Pension Committees and officers, and the Pensions CIV Joint Committee.
- 4.4 The exact mandate of the joint committee will require further consideration. The frequency of meetings of the joint committee also needs to be decided. It is proposed that up to three elected Councillors from the Pensions CIV Joint Committee could be directors of the ACS Operator. The directors have to be approved by the FCA and will have fiduciary duties and responsibilities. The decision as to who could be in these roles is to be decided.
- 4.5 The ACS is expected to be launched in February 2015. The proposed timetable for launch can be found in Appendix A.
- 4.6 At the National Association of Pension Funds (NAPF) Local Authority Conference in May 2014, DCLG minister Brandon Lewis told the conference that the government is keen to learn from local authorities that have achieved value in their funds.

#### *Financial benefits*

- 4.7 The 33 London boroughs currently have over £20bn of pension assets under management. Previous work undertaken by PwC estimated savings in the region of £120m per annum from the creation of a CIV, provided there was close to full participation by authorities. Costs of running the ACS were estimated to be between 1 and 5 basis points (0.01% to 0.05%) of assets under management with the estimated costs, for full participation from all 33 London local authorities, estimated to be £4.8m per annum. At lower levels of participation, both the financial benefits and the costs would reduce.
- 4.8 Indicative costs and potential savings are summarised in the table below, for assets under management of £24bn, £10bn, and the minimum target size of £5bn.

## APPENDIX 1: MAYOR AND CABINET REPORT ON THE CIV

4.9 For Lewisham, with a largely passive fund the savings will likely be in the respect of management fees rather than in improved performance.

### 4.10 Summary of potential savings and costs

	Assets under management	Assets under management	Assets under management
	£24bn	£10bn	£5bn
	£ 000's	£000's	£ 000's
<b>Total expected savings</b>	<b>120,000</b>	<b>50,000</b>	<b>25,000</b>
<b>On-going Costs per annum(2)</b>			
<b>Net Custody Cost</b>	(4,800)	(2,500)	(1,750)
<b>Other Costs</b>	(1,300)	(1,150)	(1,000)
<b>Total On-going Costs</b>	<b>(6,100)</b>	<b>(3,650)</b>	<b>(2,750)</b>
<b>Establishment costs (2)(3)</b>			
- Transition advisory including custody selection	(700)	(500)	(400)
- Other misc. fund advisory	(500)	(500)	(500)
- Legal, regulatory, and financial advice (funded already)	(600)	(600)	(600)
<b>Total Establishment Costs</b>	<b>(1,700)</b>	<b>(1,500)</b>	<b>(1,400)</b>

#### *Custody costs*

4.11 The main cost associated with running the ACS is from the custody of the assets. Custody costs are calculated as a basis point fee on the amount of assets, with the basis point fee reducing on a sliding scale as the amount of assets under custody increases.

4.12 In relation to existing segregated mandates, it is likely that savings would be achieved through moving such mandates to an ACS as this would reduce custody costs. This is because most existing segregated mandates are relatively small and accordingly consolidating these mandates in the ACS should increase the amount invested in each mandate which in turn would result in a lower basis point custody charge.

#### *Other costs and benefits*

4.13 Other on-going costs of the ACS are likely to include staff costs, FCA fees, consultancy fees and administration costs including audit and taxation. These fees would be charged directly to the fund, as they would be now. Consultancy fees might include professional advice on investment manager selection. As this would be performed centrally at the ACS level rather than multiple times at individual borough level, it is likely that savings would be achieved in this regard. Admin costs would not be expected to be significant compared to the benefits identified.

#### *Establishment costs*

4.14 There will be a number of establishment costs incurred in setting up the fund. These will be one-off costs in the first year. £625,000 has already been contributed to these costs by the boroughs, in order to engage professional advisors to

## **APPENDIX 1: MAYOR AND CABINET REPORT ON THE CIV**

perform the necessary financial and regulatory work. It is currently expected that this work will be performed within this existing budget.

- 4.15 As the project progresses, additional professional fees are likely to be incurred. For example, to assist in training relevant individuals on their regulatory roles and to assist in the development of procedure manuals. It will become clearer in due course where costs may arise in this regard.
- 4.16 The transition of assets into the fund will also need to be considered, as assets are moved from existing managers to new managers appointed to the ACS. To a large extent, boroughs already incur similar costs as they transition assets to different managers in the ordinary course of their pension activities. As such these costs may well simply offset existing costs incurred by boroughs although clearly this depends on the level of fees currently charged and the number of transitions.

### **5. FINANCIAL IMPLICATIONS**

- 5.1 So far 28 boroughs have said that they agree with the principle and that they are willing to pay £25,000 to pay for implementation measures. Lewisham would also make a contribution of £25,000, and the £1 initial share capital. Other than these costs, there are no immediate financial implications from accepting the recommendations of this report. The council will still have its existing freedoms and obligations to invest its pension fund assets as it considers most appropriate, whether via the CIV proposed in this report or elsewhere.
- 5.2 However, there are good grounds for believing that the CIV will be able to deliver small reductions to fund managers' fees and hence that, over time, it will prove an attractive option in which to invest and deliver better net investment returns.

### **6. LEGAL IMPLICATIONS**

- 6.1 The Pensions CIV Joint Committee is a joint sub-committee of London Councils which is itself a joint committee. The relevant powers to set up this joint committee and the sub-committee are contained within sections 101 and 102 of the Local Government Act 1972 which enables local authorities to discharge their functions jointly. London Councils can set up a sub-committee to discharge any of its functions under its terms of reference.
- 6.2 The Pensions Investment Committee has been delegated with the responsibility of exercising all functions of the Council in relation to local government pensions under the Superannuation Act 1972 and all other relevant pensions legislation including the overall investment strategy and policies of the fund. It is therefore the appropriate body to make the decision whether to invest in the CIV. As the responsibility for making the decision to participate is ambiguous in law, it is recommended that to the extent that it is an executive decision, the Mayor agrees the recommendation, and that the full Council be recommended to agree to the extent it is a non-executive decision.
- 6.3 The CIV can be set up as a company using the powers in Section 1 and 4 of the Localism Act 2011 which enables local authorities to set up the company and trade for commercial return. As stated in this report, the CIV will be subject to the regulatory control of the Financial Conduct Authority.

## APPENDIX 1: MAYOR AND CABINET REPORT ON THE CIV

- 6.4 Once established, the CIV will be accountable to Pension Investment Committee in the same way as its other Investment Managers and it will be for that Committee to determine, upon review of the company's performance, if and how much to invest in the vehicle, subject to proper independent advice.
- 6.5 If the Council does determine to invest in the CIV, then such investment will be subject to the Council's published Statement of Investment Principles, ( which itself will need amending to reflect the establishment of the CIV) and the relevant investment thresholds prescribed in the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009, as amended which set limits on the percentage of the fund which can be invested in different types of investment.

### 7. CRIME AND DISORDER IMPLICATIONS

- 7.1 There are no crime and disorder implications directly arising from this report.

### 8. EQUALITIES IMPLICATIONS

- 8.1 The Equality Act 2010 became law in October 2010. The Act aims to streamline all previous anti-discrimination laws within a Single Act. The new public sector Equality Duty, which is part of the Equality Act 2010, came into effect on the 5 April 2011.
- 8.2 The Council's Comprehensive Equality Scheme for 2012-16 provides an overarching framework and focus for the Council's work on equalities and helps ensure compliance with the Equality Act 2010. No direct equalities implications have been identified, in terms of adverse impact, with respect to the Council's obligations under the Equality Act 2010.

### 9. ENVIRONMENTAL IMPLICATIONS

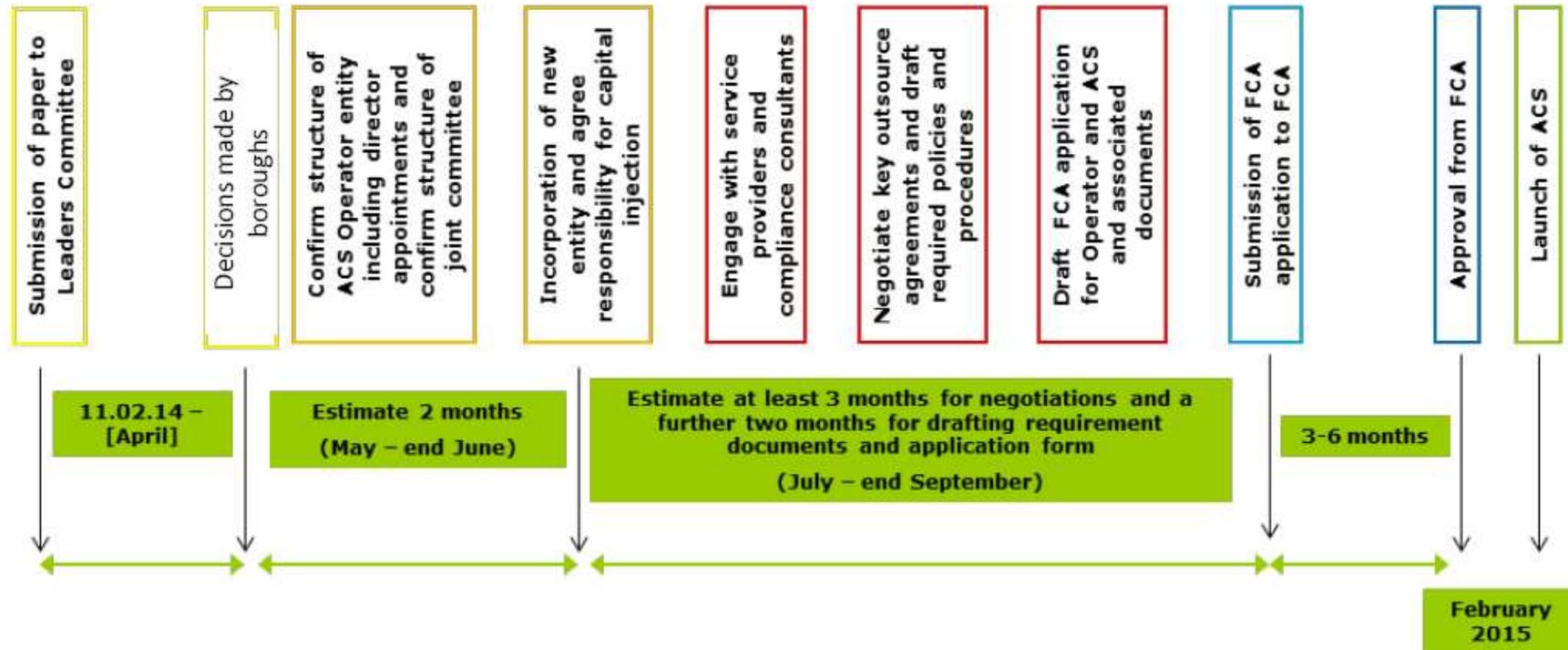
- 9.1 There are no environmental implications directly arising from this report.

### **FURTHER INFORMATION**

If there are any queries on this report or you require further information, please contact:

David Austin, Head of Corporate Resources on 020 8314 9114, or  
Adeola Odeneye Principal Accountant Strategic Finance on 020 8314 6147

# Proposed timeline for launch of ACS and ACS Operator



**Important note:** The above timeline is an estimated timeline and assumes that there will be no undue delay in the project. We would suggest that 3 months prepare the FCA applications, to negotiate contracts and prepare documents is a minimum and this is more likely to take up to 6 months. The FCA can take up to 6 months to review the application for the ACS Operator (on the basis the application is complete) and usually an application for an ACS will not be considered by the FCA before the ACS Operator is approved however we would hope that the two applications can be run concurrently and that 6 months would be the maximum period for review, although this cannot be guaranteed.

# Agenda Item 11

<b>Council</b>			
<b>REPORT TITLE</b>	<b>Municipal Bonds Agency</b>		
<b>KEY DECISION</b>	No	<b>Item No:</b>	
<b>WARD</b>	N/A		
<b>CONTRIBUTORS</b>	Executive Director for Resources & Regeneration		
<b>CLASS</b>	Part 1	<b>Date:</b>	17 <sup>TH</sup> Sept 2014

## 1. SUMMARY

- 1.1. The Local Government Association (LGA), on behalf of local authorities nationally, is working on the creation of a Municipal Bonds Agency (MBA). The purpose of the MBA is to raise capital on the financial markets through the sale of bonds and on lend the proceeds to eligible councils at a lower rate than the Public Work Loans Board (PWLB) or than if the councils were to issue their own bonds.
- 1.2. Local Authority borrowing in the UK, as of 31 March 2013, amounted to £84.5 billion, of which £63.4 billion was from the PWLB. With 75 per cent of council long-term borrowing coming from the PWLB, the hike at the end of 2010 in PWLB interest rates by the Treasury, to one per cent above the gilt rate (subsequently reduced), highlighted the dependency of local authorities on the PWLB.
- 1.3. The LGA are now seeking commitments from individual Authorities to become shareholders in the MBA and provide the necessary working capital to enable the MBA to be established and seek regulatory approval. The proposed commitment from Lewisham is £25,000 as a shareholder and up to £200,000 of working capital.
- 1.4. The risks for Lewisham are that, once operating, the MBA is unable to raise capital at favourable rates or interest sufficient Authorities to work together to align their borrowing requirements (by term, at the time and with a shared liability) to share the risk on individual bonds of a sufficient scale to interest the markets.
- 1.5. Mayor & Cabinet on the 3 September 2014 approved the recommendations below for Council. A more detailed consideration of the business case for the MBA is set out in the Mayor & Cabinet report provided at Appendix 1 to this report.

## 2. RECOMMENDATION

- 2.1. In respect of the Local Government Association's business case for the creation of a Municipal Bonds Agency, Council are recommended to agree that Lewisham:
  - subscribe for 25,000 ordinary shares of one pence each in the capital of the Company in the First Fundraising for a consideration of £25,000 representing a price of £1 per ordinary share; and

- commit up to £200,000 to the Second Fundraising, it being acknowledged that this commitment will be subject, among other things, to agreement of satisfactory legal documentation.

### **3. FINANCIAL IMPLICATIONS**

- 3.1. The financial implications for Lewisham of the recommendation to become a founding shareholder of the Municipal Bonds Agency (MBA) being established by the Local Government Association (LGA) are £225,000. £25,000 in the form on an initial shareholding and £200,000 in the form on an investment in the MBA to provide it with the necessary liquidity to obtain regulatory approval and begin trading. If agreed these funds will be committed from the Council's general fund resources.
- 3.2. This investment, as with any other in a commercial entity, is at risk should the operations of the company fail. As a limited liability company the risk from the shareholding investment is limited to £25,000. The £200,000 will be at risk once the company starts trading and subject to the first bonds performing as anticipated in the LGA's business case.

### **4. LEGAL IMPLICATIONS**

- 4.1. The Local Government Association have taken expert legal advice upon the relevant powers for councils to participate in a national Municipal Bonds Agency (the Company) and on the appropriate structure and governance arrangements for the Company to ensure compliance with each Administering Authority's Statutory duties in relation to the Agency.
- 4.2. The Company will be subject to the regulatory control of the Financial Conduct Authority.
- 4.3. If the Council does determine to invest in the Municipal Bonds Agency it is not committed to using the Agency for its borrowing needs.

### **5. CRIME AND DISORDER IMPLICATIONS**

- 5.1. There are no crime and disorder implications directly arising from this report.

### **6. EQUALITIES IMPLICATIONS**

- 6.1. The Equality Act 2010 became law in October 2010. The Act aims to streamline all previous anti-discrimination laws within a Single Act. The new public sector Equality Duty, which is part of the Equality Act 2010, came into effect on the 5 April 2011.
- 6.2. The Council's Comprehensive Equality Scheme for 2012-16 provides an overarching framework and focus for the Council's work on equalities and helps ensure compliance with the Equality Act 2010. No direct equalities implications have

been identified, in terms of adverse impact, with respect to the Council's obligations under the Equality Act 2010.

## **7. ENVIRONMENTAL IMPLICATIONS**

- 7.1. There are no environmental implications directly arising from this report.

### **FURTHER INFORMATION**

If there are any queries on this report or you require further information, please contact:

David Austin, Head of Corporate Resources on 020 8314 9114, or  
Adeola Odeneye Principal Accountant Strategic Finance on 020 8314 6147

## Appendix 1 – Mayor & Cabinet report on Municipal Bonds Agency

MAYOR AND CABINET			
<b>REPORT TITLE</b>	Local Government Association – Municipal Bonds Agency		
<b>KEY DECISION</b>	No	<b>Item No:</b>	
<b>WARD</b>	All		
<b>CONTRIBUTORS</b>	Executive Director for Resources & Regeneration		
<b>CLASS</b>	Part 1	<b>Date:</b>	3 September 2014

### 1. SUMMARY

- 1.1. The Local Government Association (LGA), on behalf of local authorities nationally, is working on the creation of a Municipal Bonds Agency (MBA). The purpose of the MBA is to raise capital on the financial markets through the sale of bonds and on lend the proceeds to eligible councils at a lower rate than the Public Work Loans Board (PWLB) or than if the councils were to issue their own bonds.
- 1.2. Local Authority borrowing in the UK, as of 31 March 2013, amounted to £84.5 billion, of which £63.4 billion was from the PWLB. With 75 per cent of council long-term borrowing coming from the PWLB, the hike at the end of 2010 in PWLB interest rates by the Treasury, to one per cent above the gilt rate (subsequently reduced), highlighted the dependency of local authorities on the PWLB.
- 1.3. The LGA are now seeking commitments from individual Authorities to become shareholders in the MBA and provide the necessary working capital to enable the MBA to be established and seek regulatory approval. The proposed commitment from Lewisham is £25,000 as a shareholder and up to £200,000 of working capital.
- 1.4. The risks for Lewisham are that, once operating, the MBA is unable to raise capital at favourable rates or interest sufficient Authorities to work together to align their borrowing requirements (by term, at the time and with a shared liability) to share the risk on individual bonds of a sufficient scale to interest the markets.

### 2. RECOMMENDATION

- 2.1. Mayor & Cabinet are recommended to propose to Full Council to agree that in respect of the Local Government Association business case for the creation of a Municipal Bonds Agency Lewisham:

- subscribe for 25,000 ordinary shares of one pence each in the capital of the Company in the First Fundraising for a consideration of £25,000 representing a price of £1 per ordinary share; and
- commit up to £200,000 to the Second Fundraising, it being acknowledged that this commitment will be subject, among other things, to agreement of satisfactory legal documentation.

### **3. BACKGROUND**

- 3.1. The Municipal Bond Agency (MBA) will be a limited company owned by Local Authorities as the shareholders, established to raise capital on the financial markets to lend onto Local Authorities, and regulated by the Financial Conduct Authority.
- 3.2. In July 2013 the Local Government Association (LGA) launched Rewiring Public Services, which led to the revitalisation of the MBA project and the development of a revised business case. The business case was endorsed by the LGA's Executive Board on 20 March 2014. A two page summary of the business case is presented in Appendix A along with a link to the full case.
- 3.3. The broad principle of the agency is that it will raise capital on the financial markets through the sale of bonds and on lend the proceeds to eligible councils at a lower rate than the PWLB or than if the councils were to issue their own bonds.
- 3.4. There are other opportunities beyond price that arise from the creation of the MBA for councils to consider. They include:
- Reducing exposure to shifting government lending policies through increased competition and diversity of lending sources.
  - Creation of a potential new mechanism for prudent investment by pension funds in local government infrastructure.
  - Increased transparency and borrowing: while the PWLB processes are very efficient, they don't carry the normal level of scrutiny lending large sums of money would entail. Experience in other countries has shown that an Agency's credit processes aligned with the incentive of lower borrowing costs, and the oversight of peers, has strengthened the overall credit worthiness of councils.
  - The creation of a centre of expertise at the intersection between capital markets and local government finance.
  - Tailored flexibility evolving from the development of the centre of expertise.
- 3.5. The proposals are grounded in the prudential code and the revised business case reinforces the principle that borrowing by councils must be prudent and affordable.
- 3.6. The coordination of the set up of the company continues to be overseen by the LGA. At launch, it is expected that the Board of Directors will formally take control of the Agency. The Board will consist of: three members elected by

shareholders, one of whom will be the Chair; a debt capital markets expert; a risk management expert; two council finance directors or equivalent.

- 3.7. The LGA announced in July 2014 that 22 councils had made commitments to become shareholders of the MBA and contribute to the raising of the initial risk capital required. These commitments are in excess of the minimums required by the business case to initiate the creation of the MBA. Furthermore it expects the investor base to continue to grow.
- 3.8. Based on these commitments the LGA has established the necessary shell operating company which it is now preparing to present for regulatory approval so that it can begin trading.

#### **4. MAIN CONSIDERATIONS**

- 4.1. Local Authority borrowing in the UK, as of 31 March 2013, amounted to £84.5 billion, of which £63.4 billion was from the Public Work Loans Board (PWLB). With 75 per cent of council long-term borrowing coming from the PWLB, the hike at the end of 2010 in PWLB interest rates by the Treasury, to one per cent above the gilt rate (although subsequently reduced), highlighted the dependency of local authorities on the PWLB.
- 4.2. The business case presents a base case, recognising estimates of the savings versus the PWLB vary and will develop as the Agency matures and volumes expand. The base case anticipates that if the Agency achieves the same pricing as Transport for London ("TfL"), the nearest market comparable, then savings should be approximately 5 basis points, and it may be able to achieve an additional ~5 basis points, with a sufficiently compelling relative value proposition. The base case, from analysis of current local authority borrowing practice and future borrowing need, expects the MBA to issue bonds in benchmark sizes of £250 million to £300 million.
- 4.3. However, the business case also identifies that the Agency has the opportunity to structure itself in such a way as to achieve AAA / Sovereign like ratings, in which case, conservative estimates would put savings at between 5 and 10 basis points on top of the base case. As the Agency matures, it should expect, with an AAA / Sovereign like rating to achieve pricing closer to Manchester or Cambridge University, delivering savings of 20 to 25 basis points.
- 4.4. The business case recognises that the challenge in achieving an AAA / Sovereign like rating is not to be underestimated and will require significant credit enhancement. The risk of not achieving AAA / Sovereign like rating will be materially mitigated with significant first loss / risk capital, (between 3 and 5%, which can be used for liquidity purposes), adequate liquidity, a Joint and Several Guarantee from borrowers and a suitably diversified portfolio of borrowers, which meet the requirements of a rigorous credit process.
- 4.5. In any event, the business case identifies a number of other factors will influence pricing. The Agency is likely to suffer a new issue premium and a

liquidity premium, reflecting the fact that the Agency will be a new issuer to the market and will not have covered the maturity profile / built a yield curve. These premiums should evaporate within one to two years, but will impact the level of savings available to early borrowers. Another key concern will be the ability to issue bonds in benchmark sizes (i.e. £250 to £300 million). Failure to do so will add up to 20 basis points to the bond pricing, and eliminate any potential savings for early issuances.

- 4.6. An additional point for consideration is the level of complexity in the bond structure. Investors have limited resources for reviewing new bond issuances, so complexity becomes a deciding factor. With a Joint and Several Guarantee, the level of complexity reduces. Bonds can be listed on the London Stock Exchange, taking advantage of the listing exemptions for Local Authorities, otherwise overseas exchanges may need to be considered.
- 4.7. The business case expectation is that in subsequent issuances, the Agency should aim to cover more of the maturity profile, and accordingly, target £500 million plus of issuance from March / April 2016, in appropriate maturities. Notwithstanding the demand identified as part of the survey, the Agency would need to have visibility on issuing approximately £750 million per annum in the early years. The LGA estimate that this represents approximately 25% market share of Local Authority borrowing.
- 4.8. The business case recognises that Local Authorities will have concerns over issuing a Joint & Several Guarantee. It suggests that there are significant protections within the statutory framework which governs Local Authority finances (e.g. the Prudential Code) and implied Government support, which is somewhat evidenced by the operations of the PWLB, etc. English law contains a number of protections, such as a right of indemnity, that help ensure that guarantors can recover payments they make under the guarantee.
- 4.9. Nevertheless, the business case identified that it would be appropriate to underpin a Joint and Several Guarantee with a Right of Recourse, or equivalent, which ensures that in the event of any loss, the amount in default is distributed proportionately amongst those providing the Guarantee (i.e. the borrowers from the Agency). Even in the event a Guarantee is called, it should be noted that creditors will still have access to the High Court process, that enables a High Court appointed administrator to 'take control' of certain aspects of a Local Authority's finances, which in this scenario would be done under the auspices of the Agency. The LGA have sought legal advice from leading counsel, which is unequivocal that such a Joint & Several Guarantee would be within vires, for English councils, available under the General Power of Competence created by the Localism Act.
- 4.10. Once established, to fund the ongoing business activities of the MBA the operating model proposed envisages a simple and transparent pricing mechanism, with 10 basis points added to the interest margin for borrowers to cover the Agency's costs. Variable pricing, based on borrower creditworthiness,

was reviewed and not considered appropriate. The Board of the Agency should review the Agency's pricing and pricing strategy on a regular basis.

- 4.11. The LGA have prepared some Frequently Asked Questions and Answers and these are presented at Appendix B.

## **5. LEWISHAM COMMITMENT**

- 5.1. Lewisham have given the LGA a non-binding letter of intent (Appendix C), subject to agreement by Full Council, to become a shareholder in the MBA for the mobilisation phase and make a contribution to the operating risk capital.
- 5.2. There are two steps to the creation of the MBA. The first concerns Lewisham's commitment to its mobilisation and related governance. The second Lewisham's use of the MBA as a counter party for raising borrowing in the future.
- 5.3. To enable the MBA to be created with appropriate governance so that it can seek regulatory approval and become active, the LGA need to identify those local authorities who wish to be owners and shareholders. These shareholders need to raise the initial capital to enable the MBA to operate. The capital is in two parts: 1) a shareholding in the form of a number of £1 shares, and 2) an investment towards creating the necessary working or risk capital to provide the MBA with the necessary liquidity to issue bonds to the market on favourable terms. The required shareholding capital to enable mobilisation is estimated at £0.8 to £1.0 million and the risk capital at £8 to £10 million (see business case at Appendix A).
- 5.4. The opportunity from these investments is twofold. In respect of the shareholding investment, dividends will be earned from the profits made by the MBA operations. In respect of the risk capital, the plan is to return this to shareholders overtime with interest (estimated at up to ten years in the business case) as the MBA is able to set aside its own risk capital from the successful trading on bonds issued.
- 5.5. Nonetheless it should be recognised that both forms of initial investment are at risk should the MBA fail. The greatest risk is with the shareholding capital which will have been spent before the success or failure of the MBA is known. The risk capital is less risky as it is unlikely to be committed in full (and therefore available to be returned) if the MBA fails to raise the necessary business.
- 5.6. The recommendations, consistent with the letter of intent issued in July (see Appendix C), are for Lewisham to:
- subscribe for 25,000 ordinary shares of one pence each in the capital of the Company in the First Fundraising for a consideration of £25,000 representing a price of £1 per ordinary share; and
  - commit up to £200,000 to the Second Fundraising, it being acknowledged that this commitment will be subject, among other things, to agreement of satisfactory legal documentation.

- 5.7. No recommendation is being made at this stage about whether Lewisham should participate in a bond issuance of the MBA. This is because Lewisham does not currently have a borrowing requirement, the terms and credit rating process for participating authorities is not yet defined, and the terms of any joint and several guarantee are not yet confirmed. Should Lewisham wish to consider borrowing from the MBA at a future date a separate report will be brought forward for decision.
- 5.8. If agreed these recommendations will be an addition to the Council's Treasury Management Strategy (TMS). As such they will be reflected in the annual refresh of the TMS when it is brought forward with the budget in February 2015.

## **6. FINANCIAL IMPLICATIONS**

- 6.1. The financial implications for Lewisham of the recommendation to become a founding shareholder of the Municipal Bonds Agency (MBA) being established by the Local Government Association (LGA) are £225,000. £25,000 in the form on an initial shareholding and £200,000 in the form on an investment in the MBA to provide it with the necessary liquidity to obtain regulatory approval and being trading. If agreed these funds will be committed from the Council's general fund resources.
- 6.2. This investment, as with any other in a commercial entity, is at risk should the operations of the company fail. As a limited liability company the risk from the shareholding investment is limited to £25,000. The £200,000 will be at risk once the company starts trading and subject to the first bonds performing as anticipated from the LGA's business case.

## **7. LEGAL IMPLICATIONS**

- 7.1. The Local Government Association are taking external expert legal advice upon the relevant powers for councils to participate in a national Municipal Bonds Agency (the Company) and on the appropriate structure and governance arrangements for the Company to ensure compliance with each Administering Authority's Statutory duties in relation to the Agency .
- 7.2. The Company will be subject to the regulatory control of the Financial Conduct Authority.
- 7.3. If the Council does determine to invest in the Municipal Bonds Agency it is not committed to using the Agency for its borrowing needs.

## **8. CRIME AND DISORDER IMPLICATIONS**

- 8.1. There are no crime and disorder implications directly arising from this report.

## **9. EQUALITIES IMPLICATIONS**

- 9.1. The Equality Act 2010 became law in October 2010. The Act aims to streamline all previous anti-discrimination laws within a Single Act. The new

public sector Equality Duty, which is part of the Equality Act 2010, came into effect on the 5 April 2011.

- 9.2. The Council's Comprehensive Equality Scheme for 2012-16 provides an overarching framework and focus for the Council's work on equalities and helps ensure compliance with the Equality Act 2010. No direct equalities implications have been identified, in terms of adverse impact, with respect to the Council's obligations under the Equality Act 2010.

## **10. ENVIRONMENTAL IMPLICATIONS**

- 10.1. There are no environmental implications directly arising from this report.

### **FURTHER INFORMATION**

If there are any queries on this report or you require further information, please contact:

David Austin, Head of Corporate Resources on 020 8314 9114, or

Adeola Odeneye, Principal Accountant Strategic Finance on 020 8314 6147.

## **APPENDIX A**

### **Local Government Association Business Case Summary 20 March 2014 Municipal Bonds Agency**

#### **Public interest case**

1. Councils source 75 per cent of their borrowing from the Public Works Loans Board (PWLB). That leaves councils vulnerable to interest rates set to deliver the government's public borrowing plans. The Municipal Bonds Agency would give councils greater control of interest rates and introduce competition and diversity to the marketplace. The Agency could also offer lower penalties for early repayment of loans.
2. Nordic experience has shown that an agency's credit processes, with the incentive of lower borrowing costs and the oversight of peers, has strengthened the overall credit worthiness of local authorities.
3. The experience of the Nordic Agencies has also shown that the Agency could pass onto councils the benefit of its research into public sector financing. From this expertise it would be possible to develop advisory and tailored lending services and potentially facilitate intra authority lending.

#### **Local Authority and investor demand**

4. Councils will have new borrowing requirements for their capital programmes. Our survey identified a borrowing requirement of £5 billion over the next three years from just 46 councils, with 43 expressing an interest in using the Agency. The outstanding stock of PWLB debt matures at £1.7 billion a year. Much of that will require refinancing. Borrowing from banks is forecast to become increasingly expensive. It is estimated that annual local authority borrowing over the next three years will be between £3billion and £5 billion.
5. Banks have indicated a likely significant investor demand for the Agency's bonds. At the same price as Transport for London (TfL)'s double-A rated bonds, council borrowers would save around five basis points (bps) against the PWLB certainty rate (80bps). To achieve better bond pricing, the Agency would need an AAA/sovereign like rating. That could be achievable by holding risk capital between three and five per cent; holding adequate liquidity; providing a joint and several guarantee from borrowers; and ensuring a diverse portfolio of borrowers. An AAA/sovereign like rating combined with a joint and several guarantee should deliver significant savings to borrowers.
6. Because the Agency will be new to the market, it is likely to need to pay a new issue premium in the first one to two years. This will affect the level of savings available to early borrowers. The savings in the previous paragraph will also depend on being able to issue bonds in benchmark sizes of between £250 million to £300 million; otherwise investors will demand a premium for illiquidity.

### **Joint and several guarantee**

7. A joint and several guarantee creates the prospect of much cheaper borrowing. It will also enable the bonds to be listed on the London Stock Exchange. Overall a joint and several guarantee could expect to reduce the Agency's borrowing costs by 20 to 25 bps, saving £6.2 million to £7.5 million over the life of a 30 year £100million loan. The risks of offering a joint and several guarantee are mitigated by:
8.
  - Security over borrowing and the High court process
  - Proportionality/right of recourse
  - The risk capital and liquidity of the Agency
  - The Agency's credit processes
  - Statutory and budgetary controls in councils
  - The prudential code and minimum revenue provision
  - The statutory responsibilities of Finance Directors (section 151 officers)
  - Access to the PWLB
  - Government reserve powers.

### **Operating model and capital structure**

9. The Agency should issue two bonds in its first year with approximately 30 to 40 borrowers. For the initial issues, council borrowing will need to match the bonds' maturity profiles. Agency staffing will start small and grow as the volume of transactions does. Most functions will be outsourced. The Agency is expected to break even by year three after around £2 billion of bond issuance. It is estimated £8 million to £10 million of operating capital will be needed to cover launch and early operating costs and provide a buffer against risks.
10. The Agency's operating capital should be raised from councils or related bodies as common equity. An equity structure would allow the trading of shares and give the Agency a decision making framework over profit retention and dividends. The shareholding structure would have limits on individual level of control and give a fair return to initial shareholders for risk taking. Voting and economic rights should be de-coupled.
11. Risk Capital will be required to support the first loss protection in the event of a borrower default and should be equivalent to three to five per cent of the loans made to councils. It will be raised through a proportion of a loan taken out by a borrower being retained by the Agency.

### **Timeline**

12. The Agency should aim to issue its first bond to match the March/April 2015 peak in council borrowing. A mobilisation phase should start once the decision to proceed is made and last six months. The mobilisation phase will cost approximately £0.8 million and would establish the corporate structure; hire of key personnel; establish the Board; identify the initial list of borrowers and investors in the Agency; design key policies and processes.

## **Governance**

13. Control should rest with the LGA as the project sponsors in mobilisation phase. A project board should oversee execution, with CFO and political groups retaining an advisory role. Once appointed the Board of Directors (BoD) may operate in a shadow capacity until launch. The project board in consultation with the BoD will determine the point at which the project moves into launch.
14. At launch, the BoD will formally take control of the Agency. The BoD will consist of: three members elected by shareholders, one of whom will be the Chair; a debt capital markets expert; a risk management expert; two council finance directors or equivalent. The CEO may be a Director. The initial board will be appointed by the LGA in conjunction with the project board and in consultation with the shareholders.

## **Risk**

15. There are five key risks at this stage the most significant being that it may not be possible to raise the operating capital from councils or related bodies, despite it being an attractive investment. Other risks relate to council demand; market pricing; PWLB lowering its interest rates; and attracting the right calibre of personnel.

## **For more information please contact**

Paul Raynes  
Head of Programmes  
Local Government Association  
e-mail: paul.raynes@local.gov.uk  
Telephone: 020 7664 3037

or

John Wright  
Senior Adviser  
Local Government Association  
e-mail: john.wright@local.gov.uk  
Telephone: 020 7664 3146  
Local Government House  
Smith Square  
London SW1P 3HZ

For the full business case please follow this link to the LGA website  
[http://www.local.gov.uk/finance/-/journal\\_content/56/10180/3684139/ARTICLE](http://www.local.gov.uk/finance/-/journal_content/56/10180/3684139/ARTICLE)

## **APPENDIX B**

### **Local Government Association Question & Answer sheet for the Municipal Bonds Agency**

What will the Agency be?

*It will be a freestanding independent body owned by the local government sector that will raise money efficiently on the capital markets at regular intervals to on-lend to participating local authorities.*

Who will be participating authorities?

*They will be local authorities that have invested in the setting up of the Agency or have invested risk capital to capitalise the Agency and fund it through its early years of operations.*

What is the purpose of the Agency?

*It will offer a viable alternative source of capital funding to the Public Works Loans Board (PWLB). In addition it will be able to offer loans at better or at least equivalent rates to the PWLB and tailor packages to meet the particular needs of participating authorities. It will be collective in that it will balance the voices of smaller and larger authorities in the way the LGA does at present. It will free local authorities from Treasury control of interest rates.*

Who would own it?

*It will be owned by local authorities that invest in its establishment and those that invest in its capitalisation during its first ten years of operations. Those authorities will become shareholders in the Agency and therefore have a say in the way it is run.*

What will happen to the risk capital invested by authorities in the Agency?

*It is envisaged that it will be returned to authorities after 10 years of successful operations having earned interest at commercial rates. It is therefore a very real investment opportunity for participating authorities.*

Who would run it?

*The outline business case envisages a standalone Agency managing the issuing of bonds and on-lending to borrowers. However a review of the business case about to take place will examine alternative options of managing the process and make recommendations. Whatever option is adopted, its overall policy and direction will be steered by its shareholders*

Does it have Ministerial support?

*The Government's view is that it is for the local authority sector to determine collectively whether a local authority bond agency could be delivered on a sustainable and affordable footing. It is seen as consistent with the localism agenda that the autonomous local government sector considers whether it is able to deliver and sustain alternative financing models.*

How long will it take to establish the Agency?

*It is envisaged that the Agency could be ready to commence operations by the end of 2014, subject to the review of the business case, shortly to be undertaken, showing that it remains a viable and cost effective proposition.*

Is additional legislation required to enable the Agency to be established?

*No it can be established within the current legislative framework.*

What impact will this proposal have on the Government's control of overall government borrowing?

*Nothing in this proposal seeks to change existing arrangements. The proposals do not facilitate any additional borrowing over what is already permitted within the capital regulatory system. The existing arrangements with the Treasury retaining ultimate regulatory control are to be maintained and borrowing authorities will be required to operate within the current prudential code.*

## APPENDIX C

### Lewisham letter of intent to the Local Government Association

Private & Confidential

Michael Lockwood  
The Director  
**Local Capital Finance Company Limited**  
Local Government House  
Smith Square  
London  
SW1P 3HZ

Sir Steve Bullock  
Mayor, London Borough of Lewisham  
Lewisham Town Hall  
Catford  
London SE6 4RU

direct line 020 8314 6193  
[mayorsteve.bullock@lewisham.gov.uk](mailto:mayorsteve.bullock@lewisham.gov.uk)

date 17/07/2014  
our reference  
your reference

Dear Sirs

#### **Re: Investment in Local Capital Finance Company Limited (the Company)**

We refer to our discussions and set out below the basis on which we intend to invest in the Company's proposed fundraising.

We understand that the Company's first round of fundraising shall be for at least £900,000, or such other amount as the Board of the Company may determine (the **First Fundraising**), and that the Company then proposes to complete additional round(s) of fundraising with a view to raising at least £8,000,000 or such other amount as the Board of Directors may determine, taking account of investments made in the First Fundraising (the **Second Fundraising**).

We hereby confirm that it is our firm intention to subscribe for 25,000 ordinary shares of one pence each in the capital of the Company in the First Fundraising for a consideration of £25,000 representing a price of £1 per ordinary share (the **Initial Subscription**).

The Initial Subscription is subject to final approval in accordance with our internal approval procedures. Following receipt of such approvals we intend to enter into a formal subscription agreement with the Company as soon as reasonably practicable in the form previously provided to us.

We also confirm that our indicative commitment to the Second Fundraising is £200,000, it being acknowledged that this indicative commitment will be subject, among other things, to completion of our internal investment approval process and agreement of satisfactory legal documentation.

This letter is not intended to be and shall not be legally binding.  
Yours faithfully

**Sir Steve Bullock**  
Mayor, London Borough of Lewisham

# Agenda Item 12

COUNCIL			
<b>Report Title</b>	Members Allowances		
<b>Key Decision</b>			Item No.
<b>Ward</b>	n/a		
<b>Contributors</b>	Head of Law		
<b>Class</b>	Part 1	Date: September 17 2014	

## Members Allowances

### 1. Summary and Purpose

The purpose of this report is to present recommendations in relation to members' allowances based on the Scheme of Allowances prepared by London Councils' remuneration panel and the recommendations of Sir Rodney Brooke as to its fit with the local circumstances in Lewisham.

### 2. Background

- 2.1 Under Section 18 Local Government and Housing Act 1989, the Secretary of State may make regulations authorising or requiring Councils to make a scheme providing for the payment of allowances to members. The relevant regulations are the Local Authorities (Members' Allowances) (England) Regulations 2003 as amended. The Council must publish its Scheme of Members' Allowances, dealing with basic allowances and special responsibility allowances. Payments to members of the Council may only be made in accordance with this scheme.
- 2.2 From 2001 to 2009, the Council maintained an independent remuneration panel to advise it on members' allowances. However, in January 2010, the Council agreed to change its arrangements so that it no longer maintained its own independent remuneration panel but instead had regard to the recommendations of the panel established by London Councils. It was also agreed that the Council would engage the services of Sir Rodney Brooke, the Chair of the London Councils remuneration panel after the election in May 2010 to prepare a report advising the Council about the extent to which the recommendations in the London wide report would be appropriate in the local Lewisham circumstances for the incoming administration.
- 2.3 Sir Rodney Brooke prepared that report and the Council considered it in June 2010. However because of the prevailing economic circumstances, the Council decided that it would not make any amendment to the then current scheme in so far as it related to basic or special allowances, which remained

at the 2009/10 level.

- 2.4 Since then, the Council has considered the Scheme of Members' Allowances on one further occasion. That was in 2012 when it agreed that Carers' allowances under the Scheme should be increased to £8.40 per hour and that in future it should rise automatically to match the London Living Wage.
- 2.5 A copy of the current Scheme of Members' allowances appears at Appendix 1.
- 2.6 One further legislative change has impacted on members' remuneration. Prior to the election in May 2014, regulations provided the potential for all members to be eligible to join the Local Government Pension Scheme and many members of the Council opted to do so. However, further regulations abolished the right to join the LGPS with effect from the May 2014 elections.
- 2.7 There are a number of measures in place which were originally suggested by the Council's Standards Committee to ensure the transparency of members' allowances. These measures followed a review by the Standards Committee of members' allowances and expenses. Though the Committee recognised that expenses claimed were low and justified, the Committee made suggestions for improved reporting practice, all of which were adopted and are currently in place. They include the publication of the amounts claimed by members for travel and expenses on the Council's website.
- 2.8 The Council's Scheme of Members' Allowances has now not been significantly amended since 2009. By contrast NJC officers' salaries have increased by 3%, though JNC salaries have remained static. Given the advent of a new administration at the May 2014 elections, the question of members' allowances is now being reviewed in the light of changed circumstances.
- 2.9 In considering the question of members' allowances, the Council is under a statutory duty to have regard to the advice of the Independent Remuneration Panel. A copy of the Report of the Independent Remuneration Panel of London Councils now appears at Appendix 2.
- 2.10 As in 2010, the Council has commissioned the services of Sir Rodney Brooke, Chair of the London Councils Independent Remuneration Panel to give advice about the fit of the London wide recommendations of the Panel in the context of Lewisham's local circumstances. His report now appears at Appendix 3.

### **3. Recommendations**

- 3.1 Having regard to the advice of the London Councils remuneration panel and the advice of Sir Rodney Brooke, and to the guidance issued under the Local Government Act 2000, to consider the recommendations contained in the reports at Appendix 2 and 3, and to decide whether to approve a scheme of members' allowances in accordance with Sir Rodney Brooke's recommendations as summarised below.

- (a) Basic allowance be set at £10,703 to all councillors
- (b) Special responsibility allowances to be paid as follows:-

Mayor	£81,839
Deputy Mayor	£41,675
Other Cabinet members	£16,160
Chair of Council	£ 7,070
Chair , Overview and Scrutiny	£16,160
Select Committees	£ 7,070
Chair Strategic Planning Committee	£10,115
Chair other Planning Committees	£ 7,070
Chair Licensing Committee	£ 7,070
Leaders of political groups with 15 or more members	£ 5,328
Chair of the majority group and Leaders of political groups with more than three but fewer than fifteen members	£ 3,197
Majority party whip	£ 5,328
Chair Standards Committee	£ 1,010

- (a) The basic and special responsibility allowances should cover travel in the borough and subsistence within the Greater London area.
- (b) The co-optees' allowance to be set at £606.
- (c) Subject to the provisions in paragraph 4 below, members should be entitled to claim the same allowances for travel outside London as officers.
- (d) In special circumstances (e.g. for the care of a severely disabled person) the Council should reimburse a higher rate of dependant's carers' allowance where this can be justified.
- (e) To acknowledge that the Members Allowance Scheme has not been updated for 6 years and that updating of the Scheme should continue for four years in accordance with the rate by which JNC salaries are changed in the preceding year.
- (f) Except as recommended for amendment by Sir Rodney Brooke, the current Members Allowances scheme remain in place.
- (g) That any changes to the Members Allowances Scheme be backdated to the beginning of the 2014/15 municipal year.

- 3.2 To ask officers to publish details of the new scheme as required by law in a newspaper circulating in the area.
- 3.3 To note that travel and subsistence allowances are tied to those agreed for officers from time to time, that Carers' Allowance will also increase automatically in line with the London Living Wage and that National Insurance will automatically be amended in line with any changes in the contribution rate.

#### **4. Provisions in the existing scheme relating to travel**

- 4.1 Members should not be entitled to claim more than the standard fare for any rail journey outside the borough
- 4.2 For other travel allowances (including a bicycle allowance) members should be entitled to the same allowances as those authorised for officers. They should be entitled to claim for taxi fares only when returning from late night meetings where public transport is not available, and where appropriate by members with a relevant disability. In the case of dispute, the Standards Committee should be asked to arbitrate.
- 4.3 When undertaking civic duties, the Chair of Council and the Deputy Chair of Council should be entitled to use taxis when the Council car is not available..
- 4.4 Mobile telephones or similar devices be allotted to all councillors with a requirement that they identify all non Council usage and reimburse the cost of such usage. In cases of dispute, the Standards Committee should be asked to arbitrate.

#### **5. Legal Implications**

- 5.1 The Council is under a duty to adopt a scheme of members' allowances by virtue of section 18 Local Government and Housing Act 1989 and relevant regulations. It may only pay allowances in accordance with such a scheme.
- 5.2 Members are reminded of the need to have regard to the guidance issued under the Local Government Act 2000 in relation to Members' Allowances which is referred to in the report of the London Councils Remuneration Panel attached as Appendix 2 .
- 5.3 There is a general rule that members may not usually vote on matters in which they have a personal pecuniary interest. However decisions relating to the Scheme of Members' Allowances are an exception to this general principle, and members may vote on this issue, having regard to the recommendations of the Panel, and the recommendations of Sir Rodney Brooke which in accordance with the law are being published in a newspaper circulating in the area. The Scheme once agreed will also be published.
- 5.4 The Equality Act 2010

- (a) This Act introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- (b) In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- (c) The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Council, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- (d) The Equality and Human Rights Commission issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:  
<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- (e) The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
  - Meeting the equality duty in policy and decision-making
  - Engagement and the equality duty
  - Equality objectives and the equality duty
  - Equality information and the equality duty
- (f) The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties

and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## **6. Financial Implications**

The overall budget for members' allowances for 2014/15 is £1m. This excludes associated costs for members, e.g. mobile phones, IT equipment and members training. This budget is unchanged from the 2013/14 level. The additional costs of increasing all the allowances in line with the recommendations of Sir Rodney Brooke is likely to add approximately £100k to the cost of members' allowances overall. The Council contribution in respect of members' pensions paid in 2013/14 amounted to £110k. This represents the full year saving from members no longer being part of the Pension Fund scheme.

## **7. Crime and Disorder and Environmental Implications**

There are no specific implications

## **8. Equalities Implications**

Basic allowance is payable to councillors and special responsibility in relation to specified responsibilities. Payment of dependent carers' allowance as proposed should go some way to encouraging those with children or caring responsibilities to be able to participate in the democratic process as far as possible.

# ***MEMBERS' ALLOWANCES***

## ***Scheme for Basic and Special Responsibility Allowances (2012)***

Chief Executive  
September 2012



INVESTOR IN PEOPLE

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**
  - **telephone provision**

**MEMBERS ARE ADVISED THAT FROM MAY 2010 THE COUNCIL'S STANDARDS COMMITTEE HAS REQUIRED FULL DISCLOSURE OF ALL PAYMENTS MADE AND EXPENSES CLAIMED ON THE COUNCIL'S WEBSITE.**

## **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 27 September 2012 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 27 September 2012 to 31 March 2013 this allowance is £9,812 per annum. In accordance with the decision of the Council on 30 June 2010 all allowances were frozen at their 2008/09 levels until further notice.

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.** All claim forms will be published on the website.

### 8.1 **Day Subsistence**

Where members are required to travel on Council business outside the Greater London area, and meals are not provided, then subsistence allowances may be claimed as follows:

Lunch maximum £7  
Evening Meal maximum £10

Reimbursement of the cost of an evening meal will be made only where the business meeting extends beyond 8.30 p.m.

Where members are required to stay overnight and meals are not provided with the accommodation, up to £30 may be claimed to cover the cost of all meals.

Where employees are required to visit abroad on Council business and meals are not provided with the accommodation, up to £50 may be claimed per day to cover the cost of all meals and taxi fares etc.

When claiming subsistence allowances receipts for expenditure must be presented.

## 8.2 **Overnight Subsistence**

The costs of Meetings or Conferences requiring members to be absent overnight from home will either be met directly by the authority or reimbursed upon submission of a valid claim and actual receipts. The costs to the authority of all Conferences or overnight stays will be published on the website and attributed to the Members concerned.

## 9. **Travel Allowance**

The Council has agreed that a flat rate mileage equivalent to the casual user rate paid to officers, will be paid when members use their private car for those 'approved duties' set out in Schedule 2 if the duty takes place outside the Borough of Lewisham.

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. All claim forms received may be reproduced on the Council's website.**

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.

The Council cannot provide official transport for members unless they are on civic business authorised by the Head of Business and Committee or the Business and Civic Manager, 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) care arranged by members on an 'ad-hoc' basis at the prevailing hourly rate of the London Living Wage £8.55 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 can be supplied with a broadband line, which includes a voice phone line which can be used exclusively for enquiries by constituents and

for Council business. If this is the case the cost of this computer and phone line will be paid in full by the Council. If you already have a broadband line this can also be used for Council work.

However, if you do not wish to take advantage of this proposal, 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.

Where mobile telephones or similar devices are allotted to Members, any non Council usage must be identified and the Council reimbursed.

12. **National Insurance Contributions/Statutory Record and Statutory Sick Pay (SSP)**

The lower earnings limit in 2012/13 is £464 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.

13. **Tax and Benefits**

A guide to the latest rules on Social Security Benefits and Tax Credits as they relate to Councillors, which has been produced by the Local Government Information Unit, is held by the Head of Business & Committee in the Civic Suite, extension 49327. It explains which allowances are taxable and how being a councillor can affect the benefits which you or your partner claim.

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.

Additionally all expenses claim forms submitted by Members as well as details of costs incurred directly by the authority on behalf of Members, will be published on the Council's website.

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  
September 2012

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	77,722
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 Strategic Planning Committee	6,130
Chair of Licensing Committees	6,130
Leaders of Political Groups or Chair of the Labour Group if 15 or more members	5,275
Leaders of Political Groups or Chair of the Labour Group if less than 15 members	3,165
Chair of the Standards Committee	1,000
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	600

**APPROVED DUTIES**

The activities set out are 'approved duty' for the purposes of payment of travel and subsistence allowances when meetings take place outside the Borough of Lewisham.

Ackroyd Community Centre Management Committee

Adoption and Permanency Panel

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

Catford Regeneration Partnership Board

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

Deptford Challenge Trust

Dressington Day Centre

Elections Committee

EqualiTeam Lewisham

Forest Hill and Sydenham Voluntary Service Association

Greater London Enterprise

Greater London Provincial Council

Green Chain Joint Committee

Groundwork London

Groundwork Local Authority Strategic Input Board

Healthier Communities Select Committee

Health and Safety Committee

Housing Joint Partnership Board

Housing Select Committee (time limited)

Investment Sub-Committee

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 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 Assemblies

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

Reserve Forces and Cadets Association

SACRE

Safer & Stronger Communities Select Committee

Shadow Health and Well Being Board

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 place; 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 Members may claim for taxi fares only when returning from late night meetings where public transport is not available, and where appropriate by members with a relevant disability. In the case of dispute, the Standards Committee should be asked to arbitrate.
- 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, motor cycle and bicycle 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

Up to 999cc	42.9p per mile
1000cc and above	47.7p per mile

4.3 Bicycles

14p per mile

4.4 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.

4.5 Tolls, Ferries or Parking Fees

The actual cost may be paid.

# The Remuneration of Councillors in London 2014

Report of the Independent Panel



## Introduction

The Local Authorities (Members' Allowances) (England) Regulations 2003 ('the Regulations') authorise the establishment by the Association of London Government (now London Councils) of an independent remuneration panel to make recommendations in respect of the members' allowances payable by London boroughs. Such a panel ('the Panel') was established and reported in 2001, 2003, 2006 and 2010. It has been re-constituted and now comprises Sir Rodney Brooke CBE DL (Chair), Steve Bundred and Anne Watts CBE.

The Regulations require a review of the scheme every four years as a minimum. The current Panel has therefore completed a review of remuneration for councillors in London. We present our findings and recommendations in this report.

As a preparation for our work, we invited all London boroughs to give their views on the operation of the existing scheme. We also invited comments from the Leaders' Committee of London Councils. We are grateful for the feedback, which confirms that the existing London scheme of members' allowances is still fit for purpose. We make recommendations accordingly.

## The role of elected members

In our previous reports we reflected on the importance of the role of elected members. We repeat at Appendix B the job profile for councillors which we included in our 2010 report. In that report, we quoted the Government-appointed Councillors' Commission. The Commission took the view (which we continue to share) that: 'Allowances should be set at a level that enables people to undertake the role of councillor while not acting as an incentive to do so. Allowances are not shown by polls to be something which influences councillors to take on the role, though they are instrumental in making it possible for some people to do so. If it is important that there are no financial incentives to being a councillor, it is equally important that there should not be a financial disincentive.'

It is clearly desirable that service as a councillor is not confined to those with independent means. We do not repeat the arguments for appropriate remuneration for councillors which we have set out in our previous reports. We believe them to be self-evident. But we do repeat our belief in the importance of local democracy and the role of councillors within it. Each London Borough is responsible for services crucial to its residents. Each is responsible for a revenue budget of between £1.3bn and £3.3bn.

The responsibilities placed on local authorities continue to increase. The Localism Act 2011 devolved services to the boroughs, though, it was complained, without the resources to discharge them. From April 2013 London boroughs assumed the major new responsibility for health and wellbeing. Financial austerity brings substantial and further challenges to councillors: local authorities are required to make substantial cuts in their spending. Changes to the welfare system (particularly acute in London) give residual discretionary powers to local authorities. Councillors are faced with unenviable choices. Demand for local authority services continues to grow. In particular, there is exponential growth in the number of old people and a corresponding increase in demand for social care. The strain on and competition for resources increase the demands made on elected members.

## Pensions

In the Panel's first report we recommended that councillors should be eligible for pensions. Councillors are often retired and currently have an average age of 60. It is increasingly desirable to attract a younger cohort of people to serve on councils. Access to a pension scheme is one way of achieving this. Councillors – especially those with lead responsibilities – must surrender earning potential elsewhere, earning potential which would normally be pensionable. It seems perfectly reasonable that allowances attracted by service as a councillor should be pensionable.

The Government agreed with this view and the Regulations introduced the potential for councillors' allowances to be pensionable upon the recommendation of the relevant Independent Panel. Accordingly the Panel recommended that all London borough councillors under the age of 75 be eligible to join the local government pension scheme. Twenty two of the 32 London boroughs have accepted that recommendation.

In March 2014 the Government laid before Parliament Regulations which would end the right of councillors to enter the local government pension scheme. These Regulations would extend not only to councillors but also to elected mayors (including the Mayor of London) and members of the Greater London Assembly, though Police and Crime Commissioners would retain their right of access to the pension scheme.

Councillor Sir Merrick Cockell, Chairman of the Local Government Association and Chair of London Councils from 2006 until 2010, responded: 'The government's decision isn't about saving money, it is fundamentally about undermining the role of a councillor and undermining the role of local democracy'. He added: 'Fair remuneration is important so that people from all walks of life can afford to stand for office. Otherwise we risk local government becoming the exclusive preserve of a privileged few who have the luxury of time and money to spare.' His remarks were endorsed by Cllr Gary Porter, Leader of the Local Government Association's Conservative Group, who pointed out that 'councillors are spending more time supporting their constituents and working with external organisations such as GPs, schools, police, local businesses and voluntary organisations. Secondly, recruitment and retention is becoming increasingly difficult... the commitment involved can be a deterrent when set against a possible loss of earnings and a potentially negative effect on their careers.'

We believe that access to a pension scheme can be an important factor in making service as a councillor financially possible for a wider range of people. It is particularly important for those who, like elected mayors, leaders and portfolio holders, give most or all of their time to service in local government and lose the opportunity to contribute to a pension scheme elsewhere. We would very much like the Government to reconsider this decision.

## **The current financial and political climate**

Our 2010 report made no recommendations for increasing the levels of members' allowances other than continuing provision for annual adjustments in accordance with the annual local government pay settlement. As the Government-appointed Councillors' Commission pointed out in their 2007 report, the recommendations of the London Panel had led to substantial convergence of members' allowances across London. Indeed, the Councillors' Commission recommended a similar system for the country as a whole. Following our recommendations, there is now considerable congruity in the basic allowance made by London boroughs. However, most London boroughs have not adopted our recommendations in their entirety.

Our recommended allowances are tied to the annual local government pay settlement. Because of the current financial climate, the local government pay settlement has been frozen in three of the last four years. In 2013/14 there was a 1% pay award. Acutely sensitive to the current financial austerity, only two boroughs increased members' allowances by that percentage. Indeed nine boroughs have reduced members' allowances since the date of our last report.

We are acutely aware that now is not the time to increase allowances made to councillors, though we continue to recommend that members' allowances be pegged to the annual local government pay settlement. Such pegging will ensure that councillors can receive annual increases which are in line with those received by staff. We fully accept that, in the current financial climate, it would be entirely inappropriate to increase members' allowances (beyond the annual updating). Nevertheless we hope that in the longer term the financial situation will permit further convergence of members' allowances around our recommendations. We continue to believe that the scheme we propose is sufficiently flexible to accommodate the different political management arrangements of different London boroughs. Our view is confirmed by the general response from the London boroughs.

## Consultation with the boroughs

### Level of allowances

In our consultation with the London boroughs we asked a number of questions. We enquired whether it was believed that the salary of an MP remains a sound comparator to fix the remuneration of a borough leader. [Our recommendations for other special responsibility allowances are related to that recommended for Leaders.] Members of Parliament currently receive a salary of £66,396, now rather more than our updated recommendation for the allowance for Leaders.

Though there was dissent from one Borough, another asserted that the Leader's allowance should reflect the total remuneration package paid to Members of Parliament. A different borough pointed out that whereas a Member of Parliament represented an electorate of 70,000 people, a leader was responsible for the delivery of a wide range of services to a population of 300,000 – an electorate of 220,000 across an area three times as large as a parliamentary constituency. Indeed, 'it is arguable that the responsibilities of some cabinet portfolio holders are greater than the local responsibilities of an MP' but 'on balance the salary of an MP is about as sound a comparator as is likely to be found'.

In considering the responses, we also took into account the remuneration payable to chairs and members of other public bodies. We continue to believe that the allowances we have recommended are suitable. In particular, we think it appropriate that Leaders should receive an allowance approximating to the salary of a Member of Parliament.

### External paid appointments

There has been some controversy over councillors accepting paid appointments in other public bodies, given their cumulative remuneration. We asked the boroughs whether allowances should be adjusted to take into account external payments from other public bodies. One authority thought it reasonable to 'consider the balance of benefit to the local area before determining whether 'home' remuneration should be reduced accordingly'. Other boroughs disagreed.

We believe that if members take on extra work and responsibilities through undertaking external appointments, then they should be entitled to retain the remuneration attracted by those responsibilities. Of course the borough might reflect on the extent to which the external duties are compatible with the time required to discharge duties within the borough and adjust responsibilities accordingly.

### Chair of the Health and Wellbeing Board

These new bodies govern commissioning decisions across health, public health and social care. They must develop with commissioning groups a shared understanding of the health and wellbeing needs of the community. They must undertake a Joint Strategic Needs Assessment and develop a joint strategy for how these needs can be best addressed. This will include recommendations for joint commissioning and integrating services across health and social care. The Boards must drive local commissioning of health care, social care and public health and create a more effective and responsive local health and care system. They must also address other services that impact on health and wellbeing such as housing and education.

It was recommended to us that the Chair of the Health and Wellbeing Board should receive a special responsibility allowance in Band Three, that designed for Cabinet members. We entirely agree: this is a statutory post conferring personal statutory responsibility. The role is of major importance to local government and should be remunerated accordingly where they are councillors. In practice we imagine that Chairs of Health and Wellbeing Boards will be members of the Cabinet and have been remunerated within Band Three since their creation.

### Lead Member for Children's and Adult Services

It was suggested to us that the Lead Member for Children's Services should receive a special responsibility allowance higher than other Cabinet Members: 'The enhanced duty of safeguarding for the role of lead member for Children's Services and the time required to fulfil it makes the post a special case for an enhanced banding between the current bands three and four.'

We well understand the heavy responsibility on the lead member for Children's services and the consequences of any failure in the system. We are entirely sympathetic to the view that the responsibility might warrant a higher special responsibility allowance than other Cabinet members. In our 2010 report we specifically contemplated the different weight of responsibilities of different portfolios and suggested that they might justify different allowances. Our recommended Band Three for Cabinet Members has a range of over £6,000 and we believe that this is sufficient to enable boroughs to differentiate between the different weights of portfolios should they so decide.

It has also been suggested to us that the lead member responsible for adult safeguarding has a degree of responsibility equal to that of the lead member for children's services. We are not convinced of the comparison.

Given the different allocation of responsibilities in different boroughs, we do not make specific recommendations on differentiating special responsibility allowances for Cabinet members within Band Three.

## **Dependants' Carers' Allowance**

The Regulations authorise the payment to councillors of an allowance ('the Dependants' Carers' Allowance') in respect of the expenses of arranging for the care of children or dependants when the councillor attends meetings or is engaged in other official duties. We received representations that the Allowance should be not less than the living wage.

We strongly believe that the boroughs should make a dependants' carers' allowance available to their members. Access to a dependants' carers' allowances can make it possible for a wider range of people to serve on their councils. Specifically by payment of dependants' carers' allowance, boroughs can attract some who would not normally expect to become councillors. 26 of the 32 boroughs provide in their allowances scheme for payment of dependants' carers' allowances. In those boroughs which do make a payment, allowances vary from £5.27 to £9.26 per hour (in one case £15 per hour for specialised care).

We recognise the need for payments to pay regard to local circumstances and the nature of specialist care. We believe that ordinary care should be remunerated at not less than the London living wage of £8.60 per hour; and (on presentation of proof of expense) payment should be made at a higher rate when specialist nursing skills are required.

## **Sickness, maternity and paternity leave**

This issue has again been raised with us. We adhere to our recommendations in the 2006 report, repeated in 2010, namely that councils should make arrangements in their members' allowances schemes to allow the continuance of special responsibility allowances in the case of sickness, maternity and paternity leave in the same terms that the council's employees enjoy such benefits (that is to say, they follow the same policies).

## **Members of social care and health scrutiny panels and corporate parenting panel**

One borough suggested that service on the Social Care and Health Scrutiny Panels and the Corporate Parenting Panel should be placed within Band One because of the risk profile of those roles.

We continue to recommend that the responsibility allowance payable under Band One should include membership of committees, sub-committees and adoption panels where membership requires attendance with exceptional frequency or for exceptionally long periods. If a Council believes that such memberships are substantially more onerous than service on other committees, then we agree that they would be appropriately remunerated on Band One.

## **Travel and subsistence allowances**

We have been asked to give advice on travel and subsistence allowances. We continue to believe that the Basic Allowance should cover all reasonable out-of-pocket expenses incurred by councillors, including intra-borough travel costs and expenses, though councils may consider that there are circumstances where it may be appropriate for a scheme to provide payment for the cost of transport, e.g. journeys home after late meetings, and for people with disabilities. We also continue to believe that, where travel and subsistence allowances are payable, they should be in accordance with the current scheme for travel and subsistence applicable to the Borough's staff; and that travel allowances should extend to travel by bicycle.

## **Update for inflation**

We continue to recommend that the allowances we recommend should be updated annually in accordance with the headline figure in the annual local government pay settlement.

**Sir Rodney Brooke CBE DL**

**Steve Bundred**

**Anne Watts CBE**

London  
1 June 2014

# Appendix A

Basic allowance £10,703

## Special responsibilities – beyond the basic allowance

### The case for special allowances

The reasons for payment of additional special responsibility allowances should be clearly set out in local allowances schemes. Special allowances should come into play only in positions where there are significant differences in the time requirements and levels of responsibility from those generally expected of a councillor.

### Calculation of special allowances

The proposed amounts for each band are a percentage of the figure suggested for a council leader depending upon levels of responsibility of the roles undertaken and are explained below. We believe that the SRA, which the previous panel recommended for the leader of a London council (updated), continues to be appropriate.

## Categories of special allowances

The regulations specify the following categories of responsibility for which special responsibility allowances may be paid:

- Members of the executive where the authority is operating executive arrangements
- Acting as leader or deputy leader of a political group within the authority
- Presiding at meetings of a committee or sub-committee of the authority, or a joint committee of the authority and one or more other authorities, or a sub-committee of such a joint committee
- Representing the authority at meetings of, or arranged by, any other body
- Membership of a committee or sub-committee of the authority which meets with exceptional frequency or for exceptionally long periods
- Acting as spokesperson of a political group on a committee or sub-committee of the authority
- Membership of an adoption panel
- Membership of a licensing or regulatory committee
- Such other activities in relation to the discharge of the authority's functions as require of the member an amount of time and effort equal to or greater than would be required of him by any one of the activities mentioned above, whether or not that activity is specified in the scheme.

## Local discretion

It is for the councils locally to decide how to allocate their councillors between the different bands, having regard to our recommendations and how to set the specific remuneration within the band. They must have regard to our recommendations. We believe these should have the merits of being easy to apply, easy to adapt, easy to explain and understand, and easy to administer.

## **BAND ONE**

The posts we envisage falling within band one include:

- Vice chair of a service, regulatory or scrutiny committee
- Chair of sub-committee
- Leader of second or smaller opposition group
- Service spokesperson for first opposition group
- Group secretary (or equivalent) of majority group
- First opposition group whip (in respect of council business)
- Vice chair of council business
- Chairs, vice chairs, area committees and forums or community leaders
- Cabinet assistant
- Leadership of a strategic major topic
- Acting as a member of a committee or sub-committee which meets with exceptional frequency or for exceptionally long periods
- Acting as a member of an adoption panel where membership requires attendance with exceptional frequency or for exceptionally long periods
- Leadership of a specific major project.

## **Remuneration**

We propose that band one special responsibility allowances should be on a sliding scale of between 20 – 30 per cent of the remuneration package for a council leader.

This would be made up as follows:

Basic allowance: £10,703

Band one allowance: £2,392 to £8,941

**Total: £13,095 to £19,644**

## **BAND TWO**

The types of office we contemplate being within band two are:

- Lead member in scrutiny arrangements, such as chair of a scrutiny panel
- Representative on key outside body
- Chair of major regulatory committee e.g. planning
- Chair of council business (civic mayor)
- Leader of principal opposition group
- Majority party chief whip (in respect of council business).

## **Remuneration**

We propose that band two allowances should be on a sliding scale between 40 – 60 per cent, pro rata of the remuneration package for a council leader.

This is made up as follows:

Basic allowance £10,703

Band two allowances: £15,486 to £28,581

**Total: £26,189 to £39,284**

## **BAND THREE**

We see this band as appropriate to the following posts:

- Cabinet member
- Chair of the Health and Wellbeing Board
- Chair of the main overview or scrutiny committee
- Deputy leader of the council

### **Remuneration:**

We propose that band three allowances should be between 70 – 80 per cent pro rata of the remuneration package for a council leader.

This is made up as follows:

Basic allowance: £10,703

Band three allowance: £35,128 to £41,675

**Total: £45,831 to £52,378**

## **BAND FOUR**

Leader of cabinet, including a strong leader.

This is a full-time job, involving a high level of responsibility and now includes the exercise of executive responsibilities. It is right that it should be remunerated on a basis which compares with similar positions in the public sector, while still retaining a reflection of the voluntary character of public service.

### **Remuneration:**

We propose that the remuneration package for a council leader under band four of our scheme should be £64,824.

This is made up as follows:

Basic allowance: £10,703

Band four allowance: £54,769

**Total: £65,472**

## **BAND FIVE**

Directly elected mayor

A directly elected mayor is a full-time job with a high level of responsibility and exercises executive responsibilities over a fixed electoral cycle. It is right that it should be remunerated on a basis which compares with similar positions in the public sector, while still retaining a reflection of the voluntary character of public service. However we believe this post remains different to that of the strong leader with cabinet model. The directly elected mayor is directly elected by the electorate as a whole. The strong leader holds office at the pleasure of the council and can be removed by the council. We believe that the distinction is paramount and this should be reflected in the salary level.

### **Remuneration:**

We propose that a band five directly elected mayor should receive a remuneration package of 25 per cent higher than that recommended for a council leader and that it should be a salary set at **£81,839**.

## Appendix B

### On behalf of the community – a job profile for councillors

#### Purposes:

1. To participate constructively in the good governance of the area.
2. To contribute actively to the formation and scrutiny of the authority's policies, budget, strategies and service delivery.
3. To represent effectively the interests of the ward for which the councillor was elected, and deal with constituents' enquiries and representations.
4. To champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement of the quality of life of the community in terms of equity, economy and environment.
5. To represent the council on an outside body, such as a charitable trust or neighbourhood association.

#### Key Tasks:

1. To fulfil the statutory and local determined requirements of an elected member of a local authority and the authority itself, including compliance with all relevant codes of conduct, and participation in those decisions and activities reserved to the full council (forexample, setting budgets, overall priorities, strategy).
2. To participate effectively as a member of any committee or panel to which the councillor is appointed, including related responsibilities for the services falling within the committee's (or panel's) terms of reference, human resource issues, staff appointments, fees and charges, and liaison with other public bodies to promote better understanding and partnership working.
3. To participate in the activities of an outside body to which the councillor is appointed, providing two-way communication between the organisations. Also, for the same purpose, to develop and maintain a working knowledge of the authority's policies and practices in relation to that body and of the community's needs and aspirations in respect of that body's role and functions.
4. To participate in the scrutiny or performance review of the services of the authority, including where the authority so decides, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the authority.
5. To participate, as appointed, in the area and in service-based consultative processes with the community and with other organisations.
6. To represent the authority to the community, and the community to the authority, through the various forums available.
7. To develop and maintain a working knowledge of the authority's services, management arrangements, powers/duties, and constraints, and to develop good working relationships with relevant officers of the authority.
8. To develop and maintain a working knowledge of the organisations, services, activities and other factors which impact upon the community's well-being and identity.
9. To contribute constructively to open government and democratic renewal through active encouragement of the community to participate generally in the government of the area.
10. To participate in the activities of any political group of which the councillor is a member.
11. To undertake necessary training and development programmes as agreed by the authority.
12. To be accountable for his/her actions and to report regularly on them in accessible and transparent ways.

# Appendix C

## The independent panel members

**Sir Rodney Brooke** has a long career in local government, including as chief executive of West Yorkshire County Council, Westminster City Council and the Association of Metropolitan Authorities. He was knighted in 2007 for his contribution to public service and is currently chairman of the Quality Assurance Agency for Higher Education.

**Steve Bundred** was chairman of Monitor, chief executive of the Audit Commission and chief executive of the London Borough of Camden.

**Anne Watts CBE** has an extensive career in equality and diversity that spans the private, voluntary and public sectors with organisations including the Open University, the Commission for Equality and Human Rights and Business in the Community. She chaired the NHS Appointments Commission.



## APPENDIX 3

### LONDON BOROUGH OF LEWISHAM

#### Scheme for Basic, Special Responsibility and other Allowances

#### Report of Sir Rodney Brooke CBE

- 1. Introduction.** The Local Authorities (Members' Allowances) (England) Regulations 2003 ('the Regulations') provide for the making of allowances to councillors. They require each local authority to make a scheme for the payment of a basic allowance and, if the Authority intends to make such payments, to make provision also for the payment of special responsibility (SRA), travelling and subsistence and co-optees' allowances. Before a local authority makes or amends a scheme it must have regard to the recommendations of an independent remuneration panel. Among other provisions, the Regulations authorise the establishment by the Association of London Government (now *London Councils*) of an Independent Remuneration Panel ('the London-wide Panel') to make recommendations in respect of the members' allowances payable by London boroughs. Such a Panel was established and now comprises myself (Chair), Steve Bundred and Anne Watts CBE. It reported in 2001, 2003, 2006 and 2010. It updated its recommendations in a report of June 2014. As was the case in 2010, I have been asked by the Council to advise on how the London-wide Panel's recommendations (which allow considerable flexibility in special responsibility allowances having regard to different managerial systems in each London borough) can be adapted for the Council's scheme on members' allowances.
2. The London-wide Panel is emphatic that the quality of local democracy depends on the ability of councils to attract able people to serve as councillors. The Government-appointed Councillors' Commission took the view (which the London Panel quotes in its 2014 report) that 'Allowances should be set at a level that enables people to undertake the role of councillor while not acting as an incentive to do so. Allowances are not shown by polls to be something which influences councillors to take on the role, though they are instrumental in making it possible for some people to do so. If it is important that there are no financial incentives to being a councillor, it is equally important that there should not be a financial disincentive.' The Panel

points out that 'it is clearly desirable that service as a councillor is not confined to those with independent means.'

3. In order to enable a wider group of people to serve as councillors, the Regulations allow service as a councillor to be pensionable on the recommendation of the independent remuneration panel. The London-wide Panel so recommended and Lewisham Council decided that councillors should be able to opt to join the local government pension scheme. In the 2014 Budget this possibility was removed not only for councillors, but also for elected mayors (including the Mayor of London) and members of the Greater London Assembly. Councillor Sir Merrick Cockell, then Chairman of the Local Government Association and former Chair of *London Councils*, condemned the move, saying "it is fundamentally about undermining the role of a councillor and undermining the role of local democracy...Fair remuneration is important so that people from all walks of life can afford to stand for office. Otherwise we risk local government becoming the exclusive preserve of a privileged few who have the luxury of time and money to spare". Councillors give substantial time to service in local government and lose the opportunity to contribute to a pension scheme elsewhere. The London-wide Panel condemned the Government's decision. It is nevertheless now the position that Lewisham councillors can no longer contribute to the local government pension scheme.
4. Over the years of its existence, the recommendations of the London-wide Panel have led to a considerable (and desirable) convergence of the quantum of allowances across London, particularly in respect of the Basic Allowance. However, in its 2010 report the London-wide Panel, conscious of the strains on public funds then current, recognised that then was not the time to recommend an increase in allowances (other than updating for inflation over the previous four years). Since 2010 the pressure on public funding has increased substantially: since that date Lewisham Council has been constrained to cut £82 million from its revenue budget of just over £1bn. It faces the Government expectation that a further £95 million must be cut over the next four years. It must do so at a time when the demand for public services is increasing, most notably from the growing number of old people and the corresponding increase in demand for social care. As the London-wide Panel pointed out in its 2014 report, 'the strain on and competition for resources increase the demands made on elected members'. Nevertheless, now is clearly not the time to propose substantial increases in members' allowances, even though such increases might be desirable in the long-term interests of local democracy.
5. The Regulations specifically allow annual updating by reference to a specific indicator (such as the increase in the annual local government pay settlement) for up to four years. Following the recommendations of the London Panel and the Council's own Panel (which operated until 2008) members' allowances

were updated annually in accordance with the rate by which local government pay settlement salaries were increased in the preceding year. In the 2008-09 municipal year the Council decided to freeze allowances. The allowances were again frozen for the 2009-10 municipal year. The increases in allowances foregone were 2.45% for 2008-09 and 1% for 2009-10. In 2013-14 there was a 1% local government pay settlement. The 2014 Report of the London-wide Panel updated the quantum of the allowances it recommended accordingly.

6. **Basic Allowance.** The current Basic Allowance, claimable by all councillors, remains £9,812, frozen at 2008-9 levels. The London-wide Panel's 2014 recommendation for the Basic Allowance is £10,703. In 2010 I recommended an increase in the Basic Allowance to the then recommended Greater London level of £10,597, provided that the Council agreed that it should cover travel and subsistence within the Borough. The Council did agree that the Lewisham Basic Allowance should include travel within the Borough and subsistence within the Greater London area, but did not increase the Basic Allowance. Councillors are now financially disadvantaged by the end of their right to contribute to the Local Government Pension Scheme. The consequential saving to the Council is approximately £110,000. As well as losing their entitlement to pensions, Lewisham councillors, unlike employees, have had no increase in their allowances since 2007-08. I am acutely conscious of the severe financial strain on the Council's finances but bearing in mind the financial loss suffered by the withdrawal of the right to pensions and the consequential saving to the Council, I recommend that the Basic Allowance be increased to the general London level of £10,703. Councillors have voluntarily frozen allowances at their level seven years ago. My recommendation will do no more than allow them to catch up with the pay increases enjoyed by employees; bring them into line with other London boroughs; and do something to mitigate the loss suffered by their loss of pension rights.
7. **Allowances for Mayor.** The Mayor is not eligible to receive the Basic Allowance and currently receives total remuneration of £77,722. The London-wide Panel's recommendation for the SRA receivable by an elected mayor is £81,839. In 2010 I recommended that the Mayor's SRA should increase to the London level, provided that the Mayor ceased to claim for travel and subsistence for intra-borough travel. The Mayor ceased to claim those expenses but declined to accept the increase I recommended. Since then the Mayor has had a further financial loss through the removal of his pension rights. In the interests of convergence and comparability, **I recommend** that the SRA for the **Mayor** be set at the London-wide level of £81,839. As with councillors, this will do no more than enable him to catch up with the pay increases enjoyed by employees and do something to compensate for the loss of pension rights.

8. **Allowances for Deputy Mayor.** As well as deputising for the Mayor, the Deputy Mayor is responsible for regeneration in the Borough. He currently receives an SRA of £40,600. As a councillor he is also entitled to the Basic Allowance of £9,812, a total of £50,412. The equivalent SRA, at the top of Band Three in the London-wide scheme, is £41,675. **I recommend** that the SRA for the **Deputy Mayor** be set at £41,675 for the same reasons which prompt my recommendations for the Mayor.
9. **Other Special Responsibility Allowances.** The eight Cabinet members (other than the Mayor and Deputy Mayor) are currently entitled to an SRA of £15,298. Under the Mayoral system as operated in Lewisham, they have no direct executive responsibilities. If a review of governance were to change those responsibilities, then the level of the SRA should be reconsidered. But having regard to their current responsibilities, I believe that an SRA within Band Two of the London-wide scheme would be appropriate. In 2010 I recommended that the SRA for Cabinet members (other than the Mayor and Deputy) should be set at £16,000. Adding the pay increase of 1% received by staff, **I recommend that the SRA for Cabinet members (other than the Mayor and Deputy) be set at £16,160.** As for all members, this amount, taken with the Basic Allowance, should incorporate the costs of travel within the Borough and subsistence within the Greater London area. The Chair of the Overview & Scrutiny Committee is currently allocated an SRA of £12,260. The London-wide Panel believes that the holder of this office has a vital democratic role in both the Cabinet and the Mayoral systems. It is through that Committee that there is the main challenge and scrutiny of the work of the Mayor or the Executive. In order to emphasise its constitutional importance, the post is often (though not invariably) held by a senior member of the main Opposition Party. The Council does not currently have an Opposition Party (other than the one Green Party member). The London-wide recommendation is for an SRA in Band Three, viz between £34,780 and £41,262, though it may well be that in practice the role in Lewisham does not warrant an SRA of that magnitude. Nevertheless I feel that the role is insufficiently rewarded for its importance. I believe that the role warrants an SRA equivalent to that of a Cabinet Member and accordingly **I recommend an SRA for the Chair of the Overview & Scrutiny Committee of £16,160** (as always to include travel within the Borough and subsistence within Greater London). The SRA set for the Chair of the Council, the six Chairs of Overview and Scrutiny Select Committees and the Chairs of the Planning and Licensing Committees is £6,130. This compares with a London-wide recommendation of a minimum of £15,333 for the roles. A rise of this magnitude would be quite inappropriate in the present climate. In 2010 I recommended that the SRAs for the Chairs of the Council, the Overview & Scrutiny Select Committees and the Planning and Licensing Committees be set at £7,000. Adding the 1% pay increase, **I recommend that the SRAs for the Chairs of the Council, the Overview & Scrutiny Select Committees and the Planning and Licensing Committees be set at £7,070.** The Chair of the Strategic Planning Committee is

currently allocated an SRA at the same level as the six Chairs of the Planning and Licensing Committees. While I recognise the substantial workload of the six chairs, I believe that the responsibilities of the Chair of the Strategic Planning Committee justify a higher level of allowance, midway between that paid to the chairs of the Planning Committees and the Chair of the Overview and Scrutiny Committee. Accordingly **I recommend that the Chair of the Strategic Planning Committee should receive an SRA of £10,115.** The present Scheme provides for an SRA of £5,275 for Leaders of political Groups with 15 or more members and an SRA of £3,165 for the Chair of the Labour Group and for Leaders of Groups with fewer than 15 members. There are now on the Council no such groups other than the Labour Group. I suggest, however, that the provision for Leaders of Groups should remain in the scheme (with the SRA for the Chair of the Labour Group) and updated for inflation in the unlikely event that such groups emerge during the life of the current Council. **I recommend, therefore, that Leaders of political Groups with 15 or more members should receive an SRA of £5,328 and the Chair of the majority Group and leaders of political Groups with more than three but fewer than 15 members should receive an SRA of £3,197.** Given the present composition of the Council and the responsibilities of the post in relation to the ordering of Council business, I believe that it would also be appropriate to allocate an SRA to the Whip of the majority Group equivalent to that available to the leaders of groups with more than fifteen members. **I therefore recommend that the Whip of the majority Group should receive an SRA of £5,328.** The constitution and remit of the Standards Committee has changed in the last year. Its formal powers are more limited and it is now chaired by a member of the Council. I believe that the role clearly commands greater importance than that of the ordinary member and should be rewarded at the same level as the former co-opted Chair (updated for the pay award). **I recommend that the Chair of the Standards Committee should receive an SRA of £1,010.**

10. **Co-optees.** 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 currently receive a Co-optees' Allowance of £600. Adding the pay increase, **I recommend that co-optees should receive a Co-optees' Allowance of £606.** Unlike councillors, they should be entitled to claim for travel and subsistence within (as well as outside) the Borough.
11. **Dependants' Carers' Allowance.** The scheme currently provides for payment of a dependants' carer's allowance equivalent to the London living wage, plus travelling expenses. This is entirely appropriate: it is important that service on the Council should be made possible for those with caring responsibilities. **I recommend that the Scheme continues to make provision for payment of a dependants' carers' allowance and that in special circumstances (eg for care of a severely disabled person) the Council should reimburse a higher cost**

**where this can be justified.** In cases of dispute the Standards Committee should arbitrate.

12. **Updating.** The Regulations allow updating by reference to a formula to continue for four years without review. On the recommendation of the Independent Remuneration Panel, the Council adopted a common formula, the rate by which local government salaries were increased in the preceding year. Despite the recommendation of the Independent Remuneration Panel, the Council has frozen allowances since 2008-09. Given the current financial circumstances, the freeze is understandable. Nevertheless, I believe that members should share the same fate as staff. It is more necessary than ever that able people should not be discouraged by financial penalties from serving on the Council. I **recommend** that updating should continue for four years in accordance with the rate by which annual local government pay settlement salaries are changed in the preceding year.

13. **Date of implementation.** I **recommend** that the date of implementation of my recommendations be the commencement of the 2014-15 municipal year.

14. **Other.** The current Scheme of Allowances for the Borough is well-designed and I **recommend that it continue unchanged** except for the recommendations in this report.

#### 15. **Summary of Recommendations**

(a) The Basic Allowance be set at £10,703 (currently £9,812).

(b) The following Special Responsibility Allowances should be paid:

Mayor £81,839 (currently £77,722);

Deputy Mayor £41,675 (currently £40,600);

Cabinet members £16,160 (currently £15,298);

Chair of the Overview & Scrutiny Committee £16,160 (currently £12,260);

Chair of the Council £7,070 (currently £6,130);

Chair of the Strategic Planning Committee £10,115 (currently £6,130);

Chairs of the Overview & Scrutiny Select Committees and the Planning and Licensing Committees £7,070 (currently £6,130);

Leaders of Political Groups with 15 or more members £5,328 (currently £5,275);

Chair of the majority Group and leaders of Political Groups with more than three but fewer than 15 members £3,197 (currently £3,165).

Chair of the Standards Committee £1,010 (currently £1,000)

(c) The Co-optees' Allowance be set at £606.

(d) In special circumstances (eg for care of a severely disabled person) the Council should reimburse a higher rate of dependants' carers' allowance where

this can be justified. In cases of dispute the Standards Committee should arbitrate.

(e) updating of the Scheme should continue for four years in accordance with the rate by which local government salaries are changed in the preceding year.

(f) the date of implementation of my recommendations be the commencement of the 2014-15 municipal year.

(g) except for the recommendations in this report, I recommend that the current Lewisham Members' Allowances Scheme continue unchanged.

**Rodney Brooke**  
**3 September 2014**

# Agenda Item 13

COUNCIL		
<b>Report Title</b>	Appointments	
<b>Key Decision</b>	No	Item No.
<b>Ward</b>		
<b>Contributors</b>	Chief Executive (Head of Business & Committee)	
<b>Class</b>	Part 1	Date: September 17 2014

## 1. Appointments by the Council

Elsewhere on this agenda appears a report on Constitutional Change. As part of that review, the Constitutional Working Party asked that the Council review memberships of Planning Committees should the recommended changes to the Constitution be agreed.

The current membership of Planning Committees A, B & C is as follows:

<i>Planning Committee (A)</i> (10)	Councillor Skip Amrani (Catford S) (Chair) Councillor Jimi Adefiranye (Brockley) Councillor Amanda De Ryk (Blackheath) Councillor Andre Bourne (Downham) Councillor Alan Hall (Bellingham) Councillor Roy Kennedy (Crofton Park) (V-C) Councillor Pat Raven (Lee Green) Councillor Alan Till (Perry Vale) Councillor Paul Upex (Forest Hill) Councillor James Walsh (Rushey Green)
<i>Planning Committee (B)</i> (10)	Councillor Jacq Pachoud (Bellingham) (Chair) Councillor Chris Barnham (Crofton Park)(V-C) Councillor Peter Bernards (Forest Hill) Councillor Liam Curran (Sydenham) Councillor Stella Jeffrey (Lewisham Central) Councillor Alicia Kennedy (Brockley) Councillor Mark Ingleby (Whitefoot) Councillor Hilary Moore (Grove Park) Councillor John Muldoon (Rushey Green) Councillor Gareth Siddorn (Blackheath)

<i>Planning Committee (C)</i> <i>(10)</i>	Councillor Paul Bell (Telegraph Hill) (Chair) Councillor Suzannah Clarke (Grove Park)(V-C Councillor John Coughlin (Brockley) Councillor Maja Hilton (Forest Hill) Councillor Simon Hooks (Lee Green) Councillor Helen Klier (Rushey Green) Councillor Ami Ibitson (Bellingham) Councillor Olurotimi Ogunbadewa (Downham) Councillor John Paschoud (Perry Vale) Councillor Jonathan Slater (Whitefoot)
--	---

**RECOMMENDATION** that the Council reviews the membership of the Planning Committees.

**2. Appointments by the Mayor**

The Council is requested to note the following update to the schedule of appointments agreed by the Mayor:

<i>New Cross Gate Trust (1)</i>	Councillor Brenda Dacres
<i>Corporate Parenting Group (8)</i>	Councillor Paul Maslin
<i>London Council's (c)Greater London Employment Forum</i>	Councillor Kevin Bonavia (Dep. Councillor Dromey)
<i>Positive Aging Council Steering Group</i>	Councillor Chris Best

**RECOMMENDATION** that the appointments be noted.

<b>COUNCIL</b>		
<b>Report Title</b>	Action Taken by the Chair or Vice-Chair of Council Under Rule 19 of Section E of the Constitution	
<b>Key Decision</b>	no	Item No.
<b>Ward</b>	n/a	
<b>Contributors</b>	Chief Executive (Head of Business & Committee)	
<b>Class</b>	Part 1	Date: September 17 2014

## **ACTION TAKEN BY THE CHAIR OF COUNCIL UNDER RULE 19 OF SECTION E OF THE CONSTITUTION**

1. The Chair of Council or the Vice-Chair of council agreed under the urgency procedure set out in Rule 19 of Section E of the Constitution, that the matters listed below should be treated as matters of urgency and not subject to call-in. These determinations not to subject two decisions taken by the Mayor and three decisions delegated to officers to scrutiny was made by the Chair of Council or Vice-Chair of Council as the delay in considering the item of business would have prejudiced the interests of the Council.

<u><b>Date</b></u>	<u><b>Title</b></u>	<u><b>Reason for Urgency</b></u>
April 7 2014	Green Deal Communities Fund Grant Offer	An unscheduled meeting of the Mayor acting alone was arranged on April 11 to agree to accept an award of grants made under the Department of Energy and Climate Changes's Green Deal Communities Fund by their deadline of April 14.
June 10 2014	Haseltine Primary School Building Works Contract Award	A decision delegated to the Executive Director for Resources & Regeneration and the Executive Director for Children & Young People was exempted from Scrutiny by the Education Business Panel on July 8 2014 in order that the building programme could commence immediately and be completed before the commencement of the September school term.
June 20 2014	Application for Funding from the Heat Network Funding Stream	A decision taken by the Mayor at Cabinet on June 25 was not subjected to Scrutiny by the Business Panel on July 8 as a partnership bid for grant from the Department of Energy and Climate Changes had to be submitted by June 27.

August 12 2014 Wearside Service  
Centre Remedial  
Health & Safety  
works

A decision delegated to the Executive Director for Resources & Regeneration to authorise health and safety works to be carried out when school buses were not in use was scheduled only when resources were made available by reprioritising other planned works.

August 15 2014 Mountsfield Park  
Landscaping Works

A decision delegated to the Executive Director for Resources & Regeneration to authorise landscaping works was authorised once grant funding was confirmed. Grant conditions required works to be completed by the end of the year and spend completed in January 2015.

**RECOMMENDATION that the actions taken by the Chair or Vice-Chair of Council be noted.**

COUNCIL		
<b>Report Title</b>	Motion 1 in the name of Councillor Sorba to be seconded by Councillor Jeffrey	
<b>Key Decision</b>		Item No.
<b>Ward</b>		
<b>Contributors</b>	Chief Executive (Head of Business & Committee)	
<b>Class</b>	Part 1	Date: September 17 2014

## **MOTION 1 ACTION AID TOWNS AGAINST TAX DODGING MODEL MOTION**

“While many ordinary people face falling household income and rising costs of living, some multinational companies are avoiding billions of pounds of tax from a tax system that fails to make them pay their fair share. Local governments in developing countries and the UK alike would benefit from a fairer tax system where multinational companies pay their fair share, enabling authorities around the world to provide quality public services. The UK government must listen to the strength of public feeling and act to end the injustice of tax dodging by large multinational companies, in developing countries and the UK.”

# Agenda Item 16

COUNCIL		
<b>Report Title</b>	Motion 2 in the name of Councillor Hall to be seconded by Councillor Morrison	
<b>Key Decision</b>		Item No.
<b>Ward</b>		
<b>Contributors</b>	Chief Executive (Head of Business & Committee)	
<b>Class</b>	Part 1	Date: September 17 2014

## **MOTION 2 – LONDON FIRE AUTHORITY – CHANGES TO MEMBERSHIP**

“This Council notes the Mayor’s desire to change decision-making at the London Fire and Emergency Planning Authority (LFEPA) by reducing the number of elected members LFEPA by four, replacing them with his appointees.

This Council believes the Mayor’s proposal weakens the democratic principle of the LFEPA and that it should be elected members accountable to Londoners who have a mandate to make the decisions about fire and emergency planning in the Capital.

Given the threat that the Mayor’s proposals present to democratic decision-making at the LFEPA, and the potential impact this could have on the safety of Londoners, this Council calls on the Mayor to withdraw these proposals, which have just been consulted on.”