



CONSTITUTION WORKING PARTY

Date: WEDNESDAY, 10 JUNE 2015 at 7.00 pm

**Committee Room 7
Civic Suite
Lewisham Town Hall
London SE6 4RU**

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MEMBERS

Councillor Obajimi Adefiranye	L
Councillor Kevin Bonavia	L
Councillor John Coughlin	(G)
Councillor Brenda Dacres	L
Councillor Alan Hall	L
Councillor Gareth Siddorn	L
Councillor James-J Walsh	L

This meeting is an open meeting and all items on the agenda may be audio recorded and/or filmed.

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Agenda Item 1

CONSTITUTION WORKING PARTY		
Report Title	ELECTION OF CHAIR AND VICE CHAIR	
Key Decision		Item No. 1
Ward		
Contributors	CHIEF EXECUTIVE	
Class	Part 1	Date: 10 June 2015

Recommendation

It is recommended that a Chair and Vice Chair of the Working Party be appointed for the Municipal Year 2015/16

Agenda Item 2

CONSTITUTION WORKING PARTY		
Report Title	Declarations of Interests	
Key Decision	No	Item No. 1
Ward	n/a	
Contributors	Chief Executive	
Class	Part 1	Date: 10 June 2015

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 3

CONSTITUTION WORKING PARTY		
Report Title	Minutes	
Key Decision		Item No. 2
Ward	ALL	
Contributors	CHIEF EXECUTIVE	
Class	Part 1	Date: 10 June 2015

Recommendation

It is recommended that the Minutes of the meeting of the Working Party, which was open to the press and public, held on 10 February 2015 (copy attached) be confirmed and signed.

MINUTES OF THE CONSTITUTION WORKING PARTY

Tuesday, 10 February 2015 at 6.30 pm

PRESENT: Councillors Alan Hall, Stella Jeffrey, James-J Walsh and Susan Wise

Apologies for absence were received from Councillor Liam Curran

27. Declarations of Interest

None received.

28. Minutes

RESOLVED that the minutes of the meeting held on 3 September 2015 be confirmed and signed as a correct record, subject to amendment of typographical error on page 8 paragraph 6.13 to read:

“the Working Party agreed changes to Financial Regulations to reflect changes in the law and job titles”.

29. Constitutional Changes - Electronic Services

The Head of Law introduced the report. Following a brief discussion by the Working Party it was;

RESOLVED that Para C5 of the Constitution be amended to read as follows:-

“5 Notice of place of residence or alternative

5.1 At least 5 clear days before a Council meeting, the proper officer will publish at the Council’s offices and on the Council’s website, notice of the time and place of the intended meeting and, where the meeting is called by members of the Council, the notice shall be signed by those members and shall specify the business proposed to be transacted at the meeting.

5.2 The proper officer will send to every member of the Council a summons to attend the meeting, specifying the business proposed to be transacted at the meeting and authenticated by the proper officer. The summons may be served by:-

(a) sending it to, or leaving it at the member’s usual place of residence; or

(b) where the member has specified an address other than their usual place of residence, by sending it to, or leaving it at, that other address; or

(c) where the member has given consent for the summons to be transmitted in electronic form to a particular electronic address (and consent has not been withdrawn) sending it in electronic form to that address.

5.3 In paragraph 5.2 above “authenticated” means signed or otherwise authenticated in such manner as the proper officer thinks fit”

30. Pensions Board

The Head of Law introduced the report. Following a request from the Chair the Head of Law explained the roles of the Pension Investment Committee, and the Pension Board.

The Working Party discussed the pros and cons of having a draft Terms of Reference and core functions of the Board agreed as part of the report, and decided it would be prudent for that piece of work to be done, following the appointment of the Board. The Working Party agreed the report minus the appendix, and requested that the Head of Law redraft the report for Council.

RESOLVED that recommendation be made to Council to:

- i. to establish a Pension Board with effect from 1 April 2015.
- ii. amend the Constitution as set out in paragraph 6 of the report to reflect the new legal requirement on the Council to establish and maintain a pension Board; and
- iii. make appointments to the Pension Board at the earliest opportunity.

The Chair informed members that he had 2 issues to discuss with the Working Party:

Ethics Training for Members and Officers

The Chair said the Chief Executive had mentioned Ethics training for members and officers and asked when this would be done. The Head of Law said there would definitely be one leading to the elections. She said members and officers would be advised on what they should and should not do in the period leading to the elections. Councillor Walsh said ethics training should be compulsory for all members, especially new ones. The Chair said this was for Members to discuss at their group meeting.

Strategic Planning Committee

The Chair said it would be useful for members to be reminded that there should be a separation between Members making a decision, and those making a

representation before the Committee. It was noted that too often it had been difficult to differentiate between these two. The Chair said it was important that when a Committee makes a decision, it is fair, and seen to be fair. The Head of Law said that she would do a briefing for members that would include this issue.

The meeting ended at 7:12pm

Agenda Item 4

CONSTITUTION WORKING PARTY			
Report Title	Broadway Theatre Working Group		
Key Decision	No	Item No.	4
Ward	All Wards		
Contributors	Executive Director of Community Services, Executive Director of Resources & Regeneration		
Class	Part 1	Date:	10 th June 2015

1. Summary & Purpose

1. This report proposes the establishment of a time limited member led working group to consider the future of the Broadway Theatre.

2. Recommendation

That the Constitutional Working Party agrees to recommend to the Council that it establish a time limited member led working group to consider the future of the Broadway Theatre and appoints members to it accordingly.

3. Background

- 3.1 The Overview and Scrutiny Business Panel agreed at a meeting held on Tuesday 17 February 2015 to refer the proposed saving to the Broadway Theatre to Mayor and Cabinet with a request that consideration be made of the creation of a member led working group to investigate all options for the future of the Broadway Theatre.
- 3.2 The Mayor considered this referral at Mayor & Cabinet on 18 February 2015 and the response agreed was that the Mayor said he believed a member group could be of some value and he would consider the best way to progress the suggestion, as long as any group created began with a complete briefing encompassing the long history of the theatre.
- 3.3 The basis of the savings proposal for the Broadway Theatre was a reduction in the theatre programme and staffing levels. This proposal was in response to the current limitations of the building, growing concerns about managing the current level of operation safely and the need to make savings. The Mayor accepted the savings proposal for the Broadway Theatre and a reduction to the theatre programme until such time as external investment could be found.
- 3.4 The Broadway Theatre is a Grade II listed building, opened in 1932. Improvements to Front of House areas were made 15 years ago, but the auditoria (both the 800-seat main house and the 80-seat studio theatre) and all backstage areas have remained substantially untouched for many decades, resulting in considerable deterioration. An example of this can be seen in the results from water penetration

in the basement and main auditorium ceiling

- 3.5 The Theatre sits at the heart of Catford and will play an essential role in the regeneration of the area. The long term future of the building has been entwined with the emerging plans for Catford over many years. The Council has recognised that this important building is in need of significant investment but until the masterplan for Catford is agreed it has not been possible to bring forward detailed investment plans for the building due to the interdependencies with other buildings and the road network. Work on the Catford Masterplan has significantly progressed and should enable the council to start the first phase of fundraising to address issues with the fabric of the listed building within the next 12 months.

4. Broadway Theatre Working Group

- 4.1 It is proposed that a proposed that a Broadway Theatre Working Group be established with the following terms of reference and composition:-

“Without prejudice to the remit of the Safer Stronger Select Committee, to explore any proposals for the future of the Broadway Theatre over the course of the municipal year 2015/16.

To make any comments it considers appropriate about those proposals to the Mayor and Cabinet.

The Working Group will consist of 6 members (7 if the councillor outside the majority party wishes to sit on the Group) and will cease to exist at the end of May 2016”.

5. Legal implications

- 5.1 The Council may establish working groups for time limited purposes if it considers it appropriate to do so.

6. Financial implications

- 6.1 There are no specific financial implications arising.

Background documents and originator

- Mayor & Cabinet minutes and OSBP Referral 17 February 2015

If there are any queries on this report please contact Liz Dart 02083146115.

Agenda Item 5

CONSTITUTION WORKING PARTY		
Report Title	CONSTITUTIONAL CHANGES	
Key Decision	N/A	
Ward	All	
Contributors	Head of Law	
Class	Part 1	Date 10 June 2015

1 Summary

This report sets out some proposed amendments to the Constitution for consideration by the Constitution Working Party (CWP) which is asked to decide whether to recommend to full Council to adopt those amendments.

2 Purpose of the Report

The Council is under a duty both by law and under the Constitution to keep its constitution under review. The purpose of this report is to ask the CWP to consider the report prepared by the Head of Law by way of review and so fulfil both of these duties.

3 Recommendations

The CWP is asked to consider the proposed amendments suggested in this report and to agree to recommend them to full Council, namely

- (a) that the contents of Appendix 1 replace the existing Part I of the Constitution – Contract Procedure Rules
- (b) that the contents of Appendix 2 replace the existing Part H of the Constitution – Employment Procedure Rules
- (c) that the contents of Appendix 3 – SACRE - be inserted into the Constitution at Article 18
- (d) that the Council establish a Public Services Working Group in accordance with the provisions set out in Appendix 4 and appoint members to it

- (e) that Article 6 (7) (b) be amended in accordance with Paragraph 9 of this report

4 Policy Context

- 4.1 The Council introduced a directly elected mayor and cabinet model of political governance under the Local Government Act 2000. It took effect from May 2002. Since then it has made a number of changes to its Constitution to ensure best fit with both regulation and local circumstances.
- 4.2 The Council is required by Section 37 Local Government Act 2000 to draw up and keep up to date a document referred to as the Constitution which contains information specified by the Secretary of State, the Council's standing orders, the Member code of conduct and such information as the Council considers appropriate. It must be available for public inspection.
- 4.3 A number of changes are proposed. There are two significant changes which are required by regulation.

5 Procurement

- 5.1 The first regulatory change relates to the Public Contract Regulations 2015 which were laid in February 2015. Some of the provisions came into effect in February and others on 1st April this year. The regulations reflect changes to European public procurement law and make significant amendments to the procedure for letting local authority contracts. Some of the main changes are summarised below:-
 - (a) Express legislative permission to conduct soft market testing
 - (b) The introduction of two new procurement procedures – competitive with negotiation and innovation partnerships
 - (c) A requirement to set out in procurement documents a decision not to subdivide into lots – a measure designed to make public contracts more accessible to small and medium enterprises (SMEs)
 - (d) The abolition of a minimum requirement of three providers for framework agreements
 - (e) Exemption for in house procurement - Codification of case law (Teckal) which enables a contracting authority, without a competitive procurement exercise, to contract with a controlled entity over which it exercises a degree of control similar to that which it exercises over its own departments, provided that the work of the controlled entity for the contracting authority represents 80% of its turnover.

- (f) Exemption for co-operation between authorities, subject to a requirement that the participating authorities perform on the open market less than 20% of their activities
- (g) Frontloading the procurement - The Council must provide unrestricted direct access free of charge to all procurement documents at the time the notice is placed in OJEU
- (h) Timescales for stages of the procurement process are shortened
- (i) Abolition of the distinction between Part A and Part B services, with a light touch regime introduced for certain public contracts
- (j) Reserved contracts – some service contracts may be reserved for certain types of organisation (e.g. social enterprise/mutual)
- (k) Mandatory grounds for excluding contractors - e.g. non-payment of tax with binding judgement
- (l) Discretionary grounds to exclude contractors are introduced – e.g. poor performance on previous contracts involving termination/damages
- (m) Selection criteria are principle based and less prescriptive. Relevant project specific criteria may be added if relevant and proportionate.
- (n) A new obligation to ask tenderers to explain abnormally low tenders
- (o) A detailed and much expanded reporting regime for Council to adhere to
- (p) A range of regulations designed to encourage interest from SMEs e.g. requirement to advertise on Contracts Finder, standardised pre qualification questionnaires and 30 day payment terms with heavy penalties in default. Procurement below the threshold may not have prequalification stage

5.2 Because of the significant changes to procurement law, officers suggest it would be appropriate for the existing contract procedure rules to be replaced with those appearing at Appendix 1 which reflect the requirements of the new regulations.

6. The dismissal of the Chief Executive, Chief Finance Officer and Monitoring Officer

6.1 To date, by law, the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer required a statutory procedure to

be followed involving the appointment of a designated independent person (DIP) by agreement between the Council and the officer concerned, or in default of such agreement, by the Secretary of State. Further whilst the dismissal of the Head of Paid Service required full Council approval, that of the Chief Finance Officer or the Monitoring Officer did not.

6.2 On 25th March 2015 the Local Authorities (Standing Orders) (England) (Amendment) Regulations (the 2015 regulations) were laid before Parliament. They came into force on 11th May. They provide for the existing procedure to be abolished and the introduction of a new statutory procedure which must be followed before a Head of Paid Service, Chief Finance Officer or Monitoring Officer may be dismissed. The 2015 regulations state that at its first ordinary meeting after 11th May, the Council must amend its standing orders to reflect the new law.

6.3 Key features of the 2015 regulations are set out below in summary:-

- (a) The appointment and dismissal of the Head of Paid Service remains subject to full Council approval.
- (b) The dismissal of the Chief Finance Officer or Monitoring Officer is subject to full Council approval.
- (c) Instead of a DIP, at least 20 days before it considers whether or not to approve the dismissal of the officer concerned, the Council must appoint a Panel (which is formally an advisory committee) to advise it on matters relating to the decision whether to approve the dismissal or not.
- (d) The Panel must consist of at least 2 “relevant independent persons” who have accepted an invitation to be on the Panel. These are independent persons appointed by the Council or another authority for the purposes of advising on alleged breaches of the Member Code of Conduct under the Localism Act 2011.
- (e) Subject to acceptance of the invitation to participate, appointments to the Panel must be made in the following priority order:-
 - (i) An independent person who has been appointed by the Council who is also a local government elector in the borough
 - (ii) Any other independent person who has been appointed by the Council
 - (iii) An independent person who has been appointed by another authority/authorities.

(f) Before voting on whether to approve the dismissal of the officer concerned or not, the Council must take into account:-

- Any advice, views or recommendations of the Panel
- The conclusions of any investigation into the proposed dismissal; and
- Any representations from the officer concerned.

6.4 The Council has appointed 2 independent persons for the purposes of the Localism Act 2011. They are Erica Pienaar and Wendy Innes. Their details were reported briefly to the 2015 Annual General Meeting of Council. Neither are local government electors in the borough. Were the Council to consider the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer it would be appropriate to invite Ms Pienaar and Ms Innes to be members of the Panel and should they not accept, to approach independent persons from another authority/authorities. Both have indicated at this stage that they would be prepared to sit on the Panel if required to do so.

6.5 The 2015 regulations also provide that the remuneration, allowances or fees paid to the Panel members may not exceed the level payable to that person in respect of their role under the Localism Act 2011.

6.6 Because of these changes in the law it is suggested that Part H of the Constitution entitled "Employment Procedure Rules" be replaced with that amended Part H appearing at Appendix 2.

7 SACRE

7.1 Every local authority must establish a permanent body called a Standing Advisory Council on Religious Education (SACRE) to:

(a) advise the local authority on:

- (i) religious worship in community and foundation schools which do not have a religious character; and
- (ii) religious education in accordance with an agreed or other syllabus; and

(b) decide applications by Headteachers about whether it is appropriate for collective worship to apply at their school (under section 394(1) of the Education Act 1996).

7.2 Local authorities must appoint representatives to each of four committees, representing respectively:

Group A: Christian denominations and such other religions and religious denominations as, in the authority's opinion, will

appropriately reflect the principal religious traditions in the area

Group B: the Church of England

Group C: teacher associations

Group D: the local authority .

- 7.3 It is suggested that the Constitution be amended to include SACRE as an additional representation panel at Article 18 of the Constitution. A suggested amendment appears at Appendix 3. The proposed membership of the SACRE is attached and also appears at Appendix 3.

8. A Public Spending Working Group

- 8.1 The Council recognises that alongside that of the Council, the work of other public sector organisations is critical to the wellbeing of local people. The Council and those other organisations often work in partnership to achieve the best possible outcomes for those who live and work in the borough. Particularly in times of austerity it is critical that the Council understands how resources are deployed by other public organisations in the borough. This will enable the Council to make its views known to those organisations and make informed choices about the nature of its own service provision.
- 8.2 The members of the Overview and Scrutiny Business Panel have expressed a wish to investigate in some detail the way in which other public sector organisations deploy expenditure across the borough. Such a fact finding enquiry could entail a mapping exercise to create a picture of the state of public service provision throughout Lewisham. At the same time however, it is acknowledged that it would be unhelpful to put in place an organisational structure that is cumbersome or overly bureaucratic. For this reason it is proposed that the Council establish a Public Spending Working Group for a maximum period of 6 months to investigate how public sector resources are deployed across the borough, with a requirement that it make a report to Mayor and Cabinet and full Council for consideration. It is proposed that the membership of the Working Group should be the same as the membership of the Overview and Scrutiny Business Panel.
- 8.3 Proposed Terms of Reference appear at Appendix 4 to this report.

9. Scrutiny of cross cutting issues

- 9.1 Recent experience has shown that the overview and scrutiny of cross cutting issues has led to the need on several occasions for meetings of joint select committees to ensure that the views of members with different remits are voiced and taken into account. Given the economic

strictures which the Council faces over the coming years it is likely that there will be a larger number of proposals which will cut across the remit of two or more select committees. A proliferation of joint select committee meetings would be likely to prove burdensome and diffuse.

- 9.2** The Overview and Scrutiny Business Panel has expressed a wish for the overview and scrutiny of cross cutting issues to be streamlined whilst ensuring that the different perspectives of select committees can be represented and heard. Currently, the Constitution provides that where a matter crosses the remit of two or more select committees, the Overview and Scrutiny Business Panel may allocate the matter to a select committee. It is proposed that such cross cutting matters might be considered by the Overview and Scrutiny Business Panel. It is noteworthy that the Chairs of all the select committees sit on the Overview and Scrutiny Business Panel and so views from across the remits of all select committees might be voiced in that forum. To provide a more focussed approach and to provide the maximum flexibility, it is suggested that Article 6 (7) (b) of the Constitution be amended to allow the Overview and Scrutiny Business Panel not only to allocate cross cutting issues to a select committee but also to reserve the consideration of such cross cutting issues to itself. If there is agreement to the proposed amendment, the new Article 6 (7) (2) would read as follows:-

“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. The Business Panel may allocate to a select committee, or reserve the matter to itself for consideration. “

10. Legal implications

- 10.1 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.
- 10.2 The body of the report refers to a number of legal implications including its statutory basis. It refers to the new legal requirements in relation to public procurement and employment procedure rules and to the statutory basis for the SACRE. Amendments to the Constitution are a matter for full Council decision.
- 10.3 The Constitution Working Party was established by the Council to advise it on any proposed amendments to the Constitution and its views will be made available to Council on considering whether to adopt the proposed changes.
- 10.4 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.

- 10.5 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.
- 10.6 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.
- 10.7 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/>
- 10.8 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
- 10.9 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/>

10.10 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.

11 Crime and disorder implications

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.

12. Equalities implications

There are no specific equalities implications

13. Financial implications

There are no financial implications arising from this report

I CONTRACT PROCEDURE RULES

To follow

Appendix 2

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. The functions of the appointment and dismissal of the Chief Finance Officer and the Monitoring Officer

The functions of the appointment and dismissal of the Chief Finance Officer and the Monitoring Officer are delegated to the Appointments Committee in accordance with Article G, but dismissal of the Chief Finance Officer and/or Monitoring Officer is subject to the approval of the full Council. No notice of dismissal may be sent until such approval is obtained.

8. Recruitment of Head of Paid Service, Chief Officers and Deputy Chief Officers

Subject to (6) above and (9) below, 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 (8) '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.

9. 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.

10. 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.

11. 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.

12. Eligibility to sit on appeals committees

Nothing in rule (10) 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.

13. Disciplinary action against the Head of Paid Service, Chief Finance Officer and the Monitoring Officer

- 13.1 The Council may not dismiss the Head of Paid Service, Chief Finance Officer or the Monitoring Officer unless the procedure set out in the following paragraphs 13.2 – 13.6 has been complied with.
- 13.2 The Council must invite “relevant independent persons” to be considered for appointment to a Panel to be established under Section 102(4) Local Government Act 1972 to advise it on matters relating to the dismissal of the officer concerned.
- 13.3 For the purposes of paragraph 13.2 a “relevant independent person” is any independent person who has been appointed by the Council to advise it on alleged breaches of the Council’s Member Code of Conduct pursuant to Section 28(7) Localism Act 2011. If the Council has appointed fewer than 2 such persons, the definition shall include independent persons appointed by another authority/authorities.
- 13.4 The Council shall appoint to the Panel at least 2 relevant independent persons who have accepted the invitation issued in accordance with paragraph 13.2 above. The Council must appoint Panel members in the following priority order:-
- (a) a relevant independent person who has been appointed by the Council who is a local government elector in the London Borough of Lewisham.
 - (b) any other relevant independent person who has been appointed by the council
 - (c) a relevant independent person who has been appointed by another authority or authorities.
- 13.5 The Council must appoint the Panel at least 20 working days before any Council meeting to consider whether or not to approve the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer.
- 13.6 Before the taking of a vote at a meeting convened to consider whether or not to the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, the Council must take into account, in particular:-
- (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.

14. 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.

15. 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.

16. 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.

17. 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.

SACRE

**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
Standing Advisory Council on Religious Education (SACRE)	To advise the Council on religious education in schools and to consider applications under section 394(1) of the Education Act 1996 on whether it is appropriate for the requirement for Christian collective worship to apply in the case of a particular school or pupils at the school.

PROPOSED MEMBERSHIP OF SACRE

Committee A Other Christian denominations and other faiths and beliefs represented in the LA

African-Caribbean Churches/ Pentecostal churches	1 representative
Baha'i	1 representative
Buddhism	1 representative
Free Churches	3 representatives
Hinduism	1 representative
Humanism	1 representative
Islam	2 representatives
Judaism	1 representative
Roman Catholicism	1 representative
Sikhism	1 representative

Committee B The Church of England

Southwark Diocese	5 representatives
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Committee C Teachers' Professional Associations

ATL	1 representative
NASUWT	1 representative
NUT	2 representatives
Lewisham Heads and Deputies	1 representative
Turnham school	1 representative

Committee D The Local Authority

Elected Members	3 representatives
Representative of the Executive Director	1 representative
Secondary school Governors	1 representative
Primary school Governors	1 representative

Also

Clerk to the SACRE	(non-voting)
RE Adviser to SACRE	(non-voting)
Co-optees	(non-voting)

Proposal for a Public Spending Working Group

1. Terms of reference

- To enquire into the nature, extent and spread of local public spending by any and all public sector organisations operating in the borough.
- To take evidence, whether orally or otherwise from such public sector organisations and such other parties as the Group considers appropriate
- To prepare a report on its findings for submission to the Mayor and Cabinet and to full Council at the earliest opportunity.

2. Membership

Membership of the Working Group shall be the same as the membership of the Overview and Scrutiny Business Panel save that the member who is not a member of the Labour Group shall also be a member should he wish to be so.

3. Time limit

The Working Group shall cease to exist 6 months after its establishment, or on completion of its report, whichever is the earlier.