



## Governance Committee

### Constitutional Update

**Date:** 4<sup>th</sup> March 2025

**Class:** Part 1

**Wards affected:** N/A

**Contributors:** Jeremy Chambers  
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## Recommendations

The Governance Committee is asked to:

1. Note and consider the feedback from workshop 1;
2. To agree and endorse for approval and adoption at the Annual General Meeting of the Council on 7<sup>th</sup> May 2025 the matters listed in Recommendations 3 - 10 below;
3. Part 1 – Summary & Explanation, attached to this report as Appendix 1;
4. With regard to the Part 2 - Council's Articles:
  - The deletion of references to Local Assemblies;
  - The additional wording included in Article 6.13 confirming political balance rules apply to task and finish groups, as detailed in paragraph 5.6; and
  - The full Part 2 – The Articles of the Constitution, attached to this report as Appendix 2.
5. With regard to Part 3 – Responsibility for Functions:
  - The inclusion of Chief Executive urgency provisions as detailed in paragraph 6.6;
  - The full Part 3 – Responsibility for Functions, attached to this report as Appendix 3.
6. With regard to the Council Procedure Rules:
  - The revised rules relating to Motions on Notice, as detailed in paragraph 7.5 of this report;
  - The restrictions on the business that can be conducted at an extraordinary meeting of the Council, as detailed in paragraph 7.9 of this report;
  - The restrictions on the business that can be conducted at the budget meeting of the Council, as detailed in paragraph 7.13 of this report;
  - The revised rules relating to councillor questions, as detailed in paragraph 7.17 of this report;
  - The revised end of meeting guillotine provisions, as detailed in paragraph 7.21 of this report;
  - The full Part 4 – Council Procedure Rules, attached to this report as Appendix 4.
7. With regard to the Executive Procedure Rules:
  - The deletion of references to Local Assemblies;
  - The full Part 4 - Executive Procedure Rules, attached to this report as Appendix 5.
8. With regard to the Committee Procedure Rules:
  - The amendment to confirm that Chairs and Vice chairs of committees and sub committees are determined at the Annual General Meeting of Council, as detailed in paragraph 7.36 of this report;
  - The revised provisions that detail the disapplication of specific Council Procedure Rules to committees and sub committees as detailed in paragraph 7.36 of this report;
  - The full Part 4 - Committee Procedure Rules, attached to this report as Appendix 6.
9. With regard to the Scrutiny Procedure Rules, to agree the following principles, whilst noting that the detailed wording of the Scrutiny Procedure Rules will be brought to a future meeting of the Governance Committee in advance of the Annual General Meeting of the Council on 7th May 2025:
  - That Cabinet Advisors cannot sit on the Overview & Scrutiny Committee;
  - That Cabinet Advisors can sit on select committees provided the remit of the select committee does not conflict with the portfolio supported by the Cabinet Advisor;
  - With regard to call-in that:
    - Specific and reasonable reasons for call-in must be stated;
    - The Monitoring Officer will consider the validity of any call-in application and consult with the Chair of Overview & Scrutiny in advance of rejecting any application;
    - All executive decisions are subject to call-in with the exception of decisions to note reports and decisions to recommend matters for onward consideration and decision by Council; and
    - In order to be valid any application for call-in must be supported by a minimum of seven councillors that are not members of the Executive.
10. Part 4 – Access to Information Rules, attached to this report as Appendix 7;
11. With regard to the Budget & Policy Framework:
  - References to Overview & Scrutiny Committee or any of its sub committees undertaken requiring that additional budget consultation is undertaken are removed, as detailed in paragraph 7.58 of this report;
  - The period of time for Council to meet following a call-in being referred to it by the Overview and Scrutiny Committee be amended to 21 days, as detailed in paragraph 7.58 of this report;
  - The full Part 4 – Budget & Policy Framework, attached to this report as Appendix 8.

## 1. Executive Summary

- 1.1. The Constitution is the document that governs how the Council makes decisions, how scrutiny operates, how the public engages with the Council and how the Council operates. The Council is required to keep the Constitution under review and the Council's Monitoring Officer is the custodian of the Constitution.

## 2. Introduction

The 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.

- 2.1. Following the recommendations of the Governance Committee at its meeting on 18<sup>th</sup> December 2024, Council approved the holistic review of the Constitution and the following timeline for the review:

**22nd January 2025**

*Council considers any recommendations from the Governance Committee.*

**December 2024 – February 2025**

*Officers carry out a detailed analysis of other London mayoral authority constitutions.*

**March 2025 – April 2025**

*Several workshops and Governance Committee meetings to consider potential revisions.*

**7<sup>th</sup> May 2025**

*Council AGM to consider and approve the revised Constitution.*

- 2.2. The following schedule of member workshops have been arranged:

**Workshop 1:** 4.30pm & 7pm 20<sup>th</sup> February  
**Governance Committee 1:** 7pm 4<sup>th</sup> March

**Workshop 2:** 4.30pm & 7pm 27<sup>th</sup> February  
**Governance Committee 2:** 7pm 13<sup>th</sup> March

**Workshop 3:** 4.30pm & 7pm 2<sup>nd</sup> April  
**Governance Committee 3:** 7pm 23<sup>rd</sup> April

- 2.3. Workshop 1 covered the following elements of the Constitution:

**Part 1 – Summary & Explanation**

Basic summary of:

- The Constitution,
- How the Council operates,
- How decisions are made,

- Residents' rights.

## **Part 2 – The Constitution (The Articles)**

Detailed provisions relating to:

- The purpose of the Constitution,
- Members,
- Residents' rights and responsibilities,
- The full Council,
- Scrutiny,
- Cabinet,
- Regulatory & other committees,
- Joint arrangements,
- Officers,
- Decision making,
- Finance, contract & legal matters,
- Review of the Constitution,
- Suspension, interpretation & publication.

## **Part 3 – Responsibility for Functions**

- Council,
- Executive functions,
- Local choice functions.

## **Part 4 – Rules of Procedure**

- Council procedure rules,
- Scrutiny procedure rules,
- Executive procedure rules,
- Committee procedure rules,
- Access to information rules,
- Budget & policy framework.

- 2.4. This report provides feedback from workshop 1 and makes recommendations in respect of the sections of the Constitution covered in that workshop.
- 2.5. Following the workshop, a copy of the presentation together with a questionnaire was sent to all councillors. The questionnaire included details of all the specific matters covered in the workshop. Due to timing constraints for the publication of the agenda and reports for this committee, the feedback contained in this report is from the workshop only. The Monitoring Officer will provide a verbal update at the meeting of any additional feedback received.
- 2.6. The Governance Committee has, as part of its Terms of Reference, responsibility for making proposals to the Council for any changes to the Council's Constitution it considers necessary. With limited exceptions only a meeting of the Council can make amendments to the Constitution. The views and any recommendations of the Governance Committee will be included in the report taken to the Council.

## **3. General Principles of the Review of the Constitution**

- 3.1. It is important that the Constitution is fit for purpose for a modern council, reflects best practice and statutory guidance, and is future-proofed as far as possible.
- 3.2. Recommendations relating to specific elements of the Constitution covered in workshop 1 are detailed in sections 4 to 7 of this report.
- 3.3. In general terms, the Constituion has been split into parts, tidied up and structured for ease of navigation by all audiences.

## **4. Part 1 – Summary & Explanation**

- 4.1. Part 1 of the Constitution contains a basic outline of the Constitution and how the Council operates, including:
  - Political Structure
  - Decision Making Structure, the principles of decision making and delegations;
  - Introduction to the principles of the Council, an elected Mayor, Executive (Cabinet), Council Committees and Scrutiny;
  - Access to Council meetings and documents;
  - Finance , Contract & Legal Matters;
  - General Rules of Procedure;
  - Council Staff;
  - Residents' Rights;
  - Publication & review of the Constitution.

There are no specific changes that were considered at workshop 1. A copy of Part 1 – Summary & Explanation is appended to this report.

### **Recommendation:**

- 4.2. **To agree and endorse Part 1 – Summary & Explanation, attached to this report as Appendix 1, for approval and adoption at the Annual General Meeting of the Council on 7<sup>th</sup> May 2025.**

## **5. Part 2 – The Articles of the Constitution**

- 5.1. The Constitution contains 22 Articles, which set out the legal foundation for the Constitution. Aside from tidying up, the Articles are largely unamended.
- 5.2. The structure of the Scheme of Delegation has been amended to allow for a single scheme to cover both Mayoral & Council delegations. The Committee should note that the details of the Scheme of Delegation will be considered in Workshop 2 and reported to Governance Committee on 13<sup>th</sup> March 2025.
- 5.3. All references to Local Assemblies have been removed to give effect to the budget decision likely to be taken by Council.
- 5.4. Views on Article 6.13, and whether the political balance that applies to the Overview & Scrutiny Committee and its sub committees ought to also apply to Task & Finish Groups were given at workshop 1. The views expressed at the workshop can be summarised as follows:

### Local Assemblies

- There were mixed views regarding the need for local assemblies to be retained in the Constitution and whether the budget saving had been taken at the time of the workshop;
- The Monitoring Officer confirmed there is no requirement for local assemblies to be included in the Constitution and that the budget saving had been recommended by Mayor & Cabinet for approval by Council at the Budget meeting in March;
- Several members made the point that there was nothing preventing members from adopting the measures they want at a local level and there was no reason for it to be in the Constitution.
- It was noted that the officers are undertaking a review of resident engagement.

5.5. The Officer recommendation to the Governance Committee is to remove all references to local assemblies and should any future arrangements require constitutional provisions, for that to be dealt with at an appropriate future date.

### Task & Finish Groups

- There were mixed views on Task & Finish Groups, their effectiveness and whether alternative arrangements would be more beneficial;
- It was confirmed that the recent Improving Scrutiny Task & Finish Group had looked at TFGs;
- The Statutory Scrutiny Officer agreed to carry out a review of Task & Finish Groups separately to the current review of the Constitution.

5.6. In light of the Statutory Scrutiny Officer's commitment to carry out a separate review of Task & Finish Groups, no changes are suggested except to confirm that Task & Finish Groups are politically balanced. The specific wording as follows:

#### *Article 6.13 Political Balance*

*The overview and scrutiny committee and its sub-committees, **including task and finish groups**, 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.*

### **Recommendation**

- 5.7. **With regard to the Council's Articles, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7th May 2025:**
- **The deletion of references to Local Assemblies;**
  - **The additional wording included in Article 6.13 confirming political balance rules apply to task and finish groups; and**
  - **The full Part 2 – The Articles of the Constitution, attached to this report as Appendix 2.**

## 6. Part 3 – Responsibility for Functions

- 6.1. This part of the Constitution details Council, Executive and Local Choice functions.
- 6.2. It outlines the principles of delegated responsibility to officers, including the matters officers must consider when taking delegated decisions. The Committee should note that the details of the Scheme of Delegation will be considered in Workshop 2 and reported to Governance Committee on 13<sup>th</sup> March 2025.
- 6.3. Views on the following potential new provision were given at workshop 1:

**Chief Executive Urgency Provisions** – Lewisham’s Constitution does not currently have any urgency provisions for the Chief Executive.

- 6.4. A review of other Mayoral authorities is set out below: -
- Newham - Chief Executive authorised to act in extreme urgency for both executive and non-executive functions.
  - Tower Hamlets - Chief Executive authorised to act in extreme urgency for both executive and non-executive functions.
  - Hackney – Chief Executive authorised to act in extreme urgency for both executive and non-executive functions.
- 6.5. The views expressed at the workshop can be summarised as follows:
- Overall, there was support for urgency provisions to be included provided the appropriate safeguards were in place, e.g, prior consultation and reporting any use of the powers to a future meeting of Mayor & Cabinet or Council as appropriate;
  - It was suggested that the Mayor should be personally comfortable regarding these provisions being included. The Monitoring Officer confirmed that they would consult with the Mayor;
  - The Monitoring Officer agreed to email an example scenario of when these provisions could be used.
- 6.6. The Officer recommendation to the Governance Committee is to include Chief Executive urgency provisions into the Constitution, together with a requirement to consult in advance where possible and to report any use of the powers to the next meeting of Mayor & Cabinet or the Council, as appropriate. The specific wording to be included in the Responsibility for Functions as follows:

### Chief Executive Urgency Provisions

- 1.6 *Where an urgent action is necessary to protect the interests of the Council, or the inhabitants of the Borough, in connection with an executive function, that requires a decision before a meeting of the Executive can be called; the Chief Executive, after consultation with the Mayor and the Monitoring Officer, shall have power to act and shall report the action to the next meeting of the Executive.*
- 1.7 *Urgent action shall not be subject to the call-in procedure and may be implemented with immediate effect.*

1.8 *Where the Chief Executive considers that urgent action is necessary to protect the interests of the Council, or the inhabitants of the Borough, in connection with a non-executive function, that requires a decision before a meeting of Council or the appropriate committee can be called; the Chief Executive, after consultation with the Speaker and the Monitoring Officer, shall have power to act and shall report the action to the next meeting of Council or the relevant Committee.*

### **Recommendation**

- 6.7. **With regard to the Part 3 – Responsibility for Functions, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7th May 2025:**
- **The inclusion of Chief Executive urgency provisions as detailed in paragraph 6.6;**
  - **The full Part 3 – Responsibility for Functions, attached to this report as Appendix 3.**

## **7. Part 4 – Rules of Procedure**

### **Council Procedure Rules**

- 7.1. Set out below are the elements of the Council Procedure Rules that were considered at workshop 1, together with the feedback from the workshop.
- 7.2. Motions on Notice – Lewisham’s current Constitution contains no provisions regarding Motions on Notice, i.e., time, number, order, etc.
- 7.3. A review of other Mayoral authorities is set out below: -
- Newham - Total time – 60 mins; One per member; Set number of motions per political group (depending on size); Time limit per motion.
  - Tower Hamlets - Require seconder on submission except ungrouped Councillors; Order of motions detailed; Time limit per motion.
  - Hackney - Total time – 30 mins.
- 7.4. The views expressed at the workshop can be summarised as follows:

There was strong support for the following:

- A restriction on the number of motions per political group and/or independent member to one;
  - A time limit on motions overall – 30 minutes being the preferred option to be in line with public questions and councillor questions;
  - That the order of motions should not be on a first come, first served basis – the preferred option being: administration, largest opposition group, second largest opposition group, etc.
  - That in order to be included on the agenda, the seconder for the motion should be included in the notification to the Proper Officer.
- 7.5. The Officer recommendation to the Governance Committee is that the Council Procedure Rules are amended to include detailed Motions on Notice provisions as follows: -



15.1 *No motions on notice will be admissible at the Annual General Meeting of the Council, any extraordinary meeting of the Council or the ordinary meeting of the Council that considers the budget pursuant to Rule 3.4*

15.2 *Except for motions which can be taken without notice under Rule 15.8 below, written notice of every motion shall be given by the member or members of the Council proposing the motion. In order to be considered by the Proper Officer, every motion 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;*
- *Seconded;*
- *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. If the Council approves a motion which seeks to commit the Council to take action in respect of which only the Executive has power to make a decision, the matter will be referred to the Mayor and Cabinet for decision, which will be taken in accordance with this Constitution.*

15.3 *The Proper Officer may reject a Motion On Notice, if, in their opinion:*

- i) *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;*  
*or*
- ii) *It is defamatory, frivolous or offensive; or*
- iii) *It is substantially the same as a motion which has been put and answered at a Council meeting within the last three months; or*
- iv) *It requires the disclosure of confidential or exempt information; or*
- v) *It relates to the circumstances of an individual case; or*
- vi) *It relates to any investigation by the Monitoring Officer or Standards Committee.*

15.4 *Any motion that complies with the provisions of Rules 15.1-15.3 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.*

15.5 *No more than one motion may be proposed by any political group or any independent councillor for each meeting;*

15.6 *The consideration of motions on notice shall not take longer than 30 minutes in total.*

15.7 *Motions will be taken in the following order: Administration; largest political group, seconded largest political group, third largest political group, etc. Should time permit, once all motions submitted by political groups have been dealt with, motions from independent councillors will be dealt with in the order they were received by the Proper Officer.*

7.6. EGM Provisions – Lewisham's Constitution currently allows Councillor Questions and Motions at EGMs.

7.7. A review of other Mayoral authorities is set out below:

- Newham - No business except the matter that led to the meeting being

called.

- Tower Hamlets - No business except the matter that led to the meeting being called. Councillor Questions allowed that relate to the business.
- Hackney - No business except the matter that led to the meeting being called.

7.8. The views expressed at the workshop can be summarised as follows:

- There was strong support for Extraordinary meetings of Council to be restricted to only the business that led to the meeting being called and any other urgent business, i.e. no announcements, petitions, public questions, member questions or motions on notice.

7.9. The Officer recommendation to the Governance Committee is that the Council Procedure Rules are amended to include detailed EGM provisions as follows: -

*4.2 Extraordinary meetings will deal with the business set out below in that order:*

- *To choose a person to preside if the Speaker and Deputy Speaker are not present;*
- *To approve the minutes of the last meeting of the Council;*
- *To receive members' declarations of interest if any;*
- *To receive reports of the Executive or Committee relevant to the business specified in the summons to the meeting;*
- *To consider any business specified in the summons to the meeting.*

*4.3 Extraordinary meetings of Council shall not deal with any announcements, petitions, public questions, member questions or motions on notice.*

7.10. Budget Council Meeting – The current provisions allow all business that would ordinarily be permitted at a Council meeting to be transacted.

7.11. A review of other Mayoral authorities is set out below:

- Newham - Budget Item and any other urgent items only.
- Tower Hamlets - Budget Item, petitions relating to the Budget and any other urgent items only.
- Hackney - Only restriction is no 'Opposition Sponsored Business' (we don't have this).

7.12. The views expressed at the workshop can be summarised as follows:

There was strong support for the Budget meeting of Council to be restricted to only the Budget reports and any other urgent business, i.e. no announcements, petitions, public questions, member questions or motions on notice

7.13. The Officer recommendation to the Governance Committee is that the Council Procedure Rules are amended to include detailed Budget Council meeting provisions as follows:

*3.1 At the relevant ordinary meeting of the Council when the Council's Budget and Council Tax is approved and set, the agenda will be limited to consideration of the budget report, including the Mayor and Cabinet's*

*recommendations for the Budget, Capital Programme, Borrowing Policy and Council Tax together with any items the Proper Officer, in consultation with the Speaker, has agreed be taken as urgent.*

7.14. Councillor Questions – The current maximum number of councillor questions is two and questions are dealt with in the order they are received.

7.15. A review of other Mayoral authorities is set out below:

- Newham - One question per Councillor; Total time – 30 mins.
- Tower Hamlets - One question per Councillor; Total time – 30 mins.
- Hackney - Two questions per Councillor; Total time – 30 mins.

7.16. The views expressed at the workshop can be summarised as follows:

- Overall support for the time available for councillor questions to remain at 30 minutes and for two questions per councillor remaining;
- Strong support that the order of questions should not be on a first come, first served basis – the preferred option being: administration, largest opposition group, second largest opposition group, etc, independent .
- Strong support for all first questions to be dealt with before any second questions are dealt with.

7.17. The Officer recommendation to the Governance Committee is that the Council Procedure Rules are amended to include detailed Councillor Questions provisions as follows:

*14.4 During the time allocated for member questions, the following provisions shall apply:*

- *All members' first questions, including supplementary questions, will be responded to and/or dealt with before consideration of any members' second questions;*
- *The order of members' first questions to be considered will be as follows: administration, largest opposition group, second largest opposition group, etc. Should time permit, once all first member questions submitted by political groups have been dealt with, first questions from independent councillors will be dealt with in the order they were received by the Proper Officer.*
- *The order of members' second questions to be considered will be as follows: administration, largest opposition group, second largest opposition group, etc. Should time permit, once all second member questions submitted by political groups have been dealt with, second questions from independent councillors will be dealt with in the order they were received by the Proper Officer.*

7.18. Guillotine Provisions – The current provisions relating to the end of Council meetings allow the Speaker to specify matters that ought to be considered at an adjourned (additional) meeting, seeks views of councillors for other items to be included and the Speaker determines matters that require resolution.

7.19. A review of other Mayoral authorities is set out below:

- Newham - Each item put to the vote without further debate and a vote on whether the item should be accepted, deferred or rejected.

- Tower Hamlets - Current item under debate immediately put to the vote. All outstanding reports voted on without debate. Motions fall (except some specific ones).
- Hackney - All outstanding business deemed to have been moved and seconded and put to the meeting in turn for a vote. Motions referred to Cabinet or committee.

7.20. The views expressed at the workshop can be summarised as follows:

There was strong support for clearer guillotine provisions to be adopted – with the following being preferred: The current item under debate immediately put to the vote; All outstanding reports voted on without debate; Any remaining motions fall and are not carried forward to a future Council meeting.

7.21. The Officer recommendation to the Governance Committee is that the Council Procedure Rules are amended to include detailed Guillotine provisions as follows: -

#### *10. Duration of Council Meetings & Guillotine Provisions*

*10.1 The Speaker shall interrupt proceedings where any meeting has lasted for two and a half hours from the time published in the summons as the beginning of the meeting, whereupon any Member speaking shall stop speaking. The Chair shall, without discussion, take a vote on whether or not the Members wish the meeting to continue.*

*10.2 If the majority of Members present do not vote to continue the meeting, and there are outstanding matters that have not been dealt with by that time, the following provisions shall apply: -*

- *Any debate on the current item under consideration will immediately cease and the matter will be put to the vote immediately with no further speeches;*
- *Any outstanding reports voted on without debate;*
- *Any remaining motions will fall and are not carried forward to a future Council meeting.*

*10.3 This rule 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.*

#### **Recommendation:**

7.22. **With regard to the Part 3 – Council Procedure Rules, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7th May 2025:**

- **The revised rules relating to Motions on Notice, as detailed in paragraph 7.5 of this report;**
- **The restrictions on the business that can be conducted at an extraordinary meeting of the Council, as detailed in paragraph 7.9 of this report;**
- **The restrictions on the business that can be conducted at the budget meeting of the Council, as detailed in paragraph 7.13 of this report;**

- **The revised rules relating to councillor questions, as detailed in paragraph 7.17 of this report;**
- **The revised end of meeting guillotine provisions, as detailed in paragraph 7.21 of this report;**
- **The full Part 3 – Council Procedure Rules, attached to this report as Appendix 3.**

#### **Executive Procedure Rules**

- 7.23. The Executive Procedure Rules contain provisions on the role of Mayor & Cabinet, including composition, who can make executive decisions, the Mayoral Scheme of Delegation, Mayor & Cabinet meeting details, who may attend and business to be conducted;
- 7.24. The Rules have been reviewed and generally tidied up.
- 7.25. References to the Scheme of Delegation have been amended to allow for a single scheme to cover both Mayoral & Council delegations (covered in Workshop 2).
- 7.26. References to Local Assemblies have been removed – to give effect to the budget decision likely to be taken by Council. The Officer recommendation to the Governance Committee is to remove all references to local assemblies and should any future arrangements require constitutional provisions, for that to be dealt with at an appropriate future date.
- 7.27. There are no specific changes that were considered at workshop 1. A copy of the Executive Procedure Rules is appended to this report.

#### **Recommendation**

- 7.28. **With regard to the Part 4 – Executive Procedure Rules, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7th May 2025:**
- **The deletion of references to Local Assemblies;**
  - **The full Part 4 - Executive Procedure Rules, attached to this report as Appendix 5.**

#### **Committee Procedure Rules**

- 7.29. The Committee Procedure Rules contain detailed provisions on the procedures that apply to committees.
- 7.30. The Rules have been reviewed and generally tidied up.
- 7.31. Set out below are the elements of the Council Procedure Rules that were considered at workshop 1, together with the feedback from the workshop.
- 7.32. Appointment of a Chair & Vice Chair – The current provisions state that this shall be the first business at the first meeting of every committee in any year.
- 7.33. The workshop was asked if this should be dealt with by Council at the AGM?
- 7.34. Disapplying Council Procedure Rules – The current provisions apply the Council

Procedure Rules to committees. The workshop was asked if the Council Procedure Rules and Committee Procedure Rules should clarify that the Council Procedure Rules on Extraordinary Meetings, Council Urgency Committee, Public Questions, Member Questions, Petitions and Motions on Notice do not apply to Committees.

7.35. The views of the workshop can be summarised as follows:

- Strong support for the Annual General Meeting of the Council to appoint Chairs, Vice-Chairs and membership for all committees and sub committees.
- Strong support for the Council Procedure Rules and Committee Procedure Rules to confirm that the Council Procedure Rules relating to Extraordinary Meetings, Council Urgency Committee, Public Questions, Member Questions, Petitions and Motions on Notice do not apply to Committees.

7.36. The Officer recommendation to the Governance Committee is that the Council Procedure Rules and Committee Procedure Rules are amended to include detailed provisions relating to the appointments of Chairs and Vice Chairs of committees and sub committees and the disapplication of certain Council Procedure Rules as follows:

## **9. Election of Chair and Vice Chair**

*9.1 The Chairs and Vice Chairs of all committees and sub-committees shall be appointed by the Annual General Meeting of the Council.*

## **18. Application of Council Procedure Rules**

*18.1 With the exception of those Rules listed in Rule 18.2 below, 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 Speaker will include references to the chairs of committees and sub-committees for that purpose.*

*18.2 The following Council Procedure Rules shall not apply to Council committees or sub-committees:*

- *Rule 4 - Extraordinary Meetings,*
- *Rule 7 - Council Urgency Committee,*
- *Rule 13 - Public Questions,*
- *Rule 14 - Member Questions,*
- *Rule 3.2 – as far as it relates to Petitions and*
- *Rule 15 – as far as it relates to Motions on Notice*

### **Recommendation:**

7.37. **With regard to the Committee Procedure Rules, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7th May 2025:**

- **The amendment to confirm that Chairs and Vice chairs of committees and sub committees are determined at the Annual General Meeting of Council, as detailed in paragraph 7.36 of this report;**

- **The revised provisions that detail the disapplication of specific Council Procedure Rules to committees and sub committees as detailed in paragraph 7.36 of this report;**
- **The full Part 4 - Committee Procedure Rules, attached to this report as Appendix 6.**

### **Scrutiny Procedure Rules**

7.38. The Committee Procedure Rules contain detailed provisions on the procedures that apply to the Overview & Scrutiny Committee and the select committees.

7.39. The Rules have been reviewed and generally tidied up.

7.40. Set out below are the elements of the Scrutiny Procedure Rules that were considered at workshop 1, together with the feedback from the workshop. It should be noted that the scrutiny referral process will be considered at workshop 2 or 3 and reported to a future meeting of the Governance Committee in advance of Council's AGM.

7.41. Cabinet Advisors - Should Cabinet Advisors be permitted as members of Overview & Scrutiny Committee or Select Committees?

7.42. Task & Finish Group Recommendations - What recommendations from the 'Improving Scrutiny' TFG should be incorporated into the constitution.

7.43. Call-in With regard to call-in, the following questions were raised at the workshop:

- Should we require a reason 'why' something is being called-in? This is recommended by statutory guidance and the Centre for Governance & Scrutiny.
- Should all 'Executive Decisions' be subject to call-in?
- What is the appropriate number/ group of people to call-in a decision?

7.44. The views of the workshop can be summarised as follows:

#### Cabinet Advisors

- There were mixed views on whether Cabinet Advisors should be able to sit on the Overview & Scrutiny Committee or Select Committees. Opinions ranged from no councillor appointed by the Mayor to any executive function should have a role in scrutiny to there isn't an issue with it;
- It was suggested that the current informal process where a Cabinet advisor does not sit on a select committee that covers the remit of their advisor role be formalised.

#### 'Improving Scrutiny' Task & Finish Group Recommendations

- Given that the Statutory Scrutiny Officer confirmed that they would carry out a review of Task & Finish Groups separately to the current review of the Constitution, no further feedback was received.

#### Call-in provisions

- There was full support that any request for call-in should include specific and reasonable reasons for call-in;

- There was support for all executive decisions to be subject to call-in rules with the exception of decisions (a) to note reports, and (b) to recommend matters for onward consideration and decision by Council;
- There was overall support that the current threshold for call-in should be amended. The appropriate number of councillors required to trigger a valid call-in was discussed and whilst there was no unanimous view, a minimum number of councillors appeared to be the preferred trigger;
- A question was asked regarding who determines valid reasons for call-in. The Monitoring Officer confirmed they would consider the application to call-in and should they be minded to reject the call-in, there would be an obligation to first consult with the chair of Overview & Scrutiny Committee.

7.45. The Officer recommendation to the Governance Committee is that the Scrutiny Procedure Rules are amended to include detailed provisions that:

- confirm that (a) Cabinet Advisors cannot sit on the Overview & Scrutiny Committee, and (b) Cabinet Advisors can sit on select committees provided the remit of the select committee does not conflict with the portfolio supported by the Cabinet Advisor.
- confirm (a) specific and reasonable reasons for call-in must be stated, (b) the Monitoring Officer will consider the validity of any call-in application and consult with the Chair of Overview & Scrutiny in advance of rejecting any application, (c) all executive decisions are subject to call-in with the exception of decisions to note reports and decisions to recommend matters for onward consideration and decision by Council, and (d) that in order to be valid any application for call-in must be supported by a minimum of seven councillors that are not members of the Executive.

**Recommendation:**

**7.46. With regard to the Scrutiny Procedure Rules, to agree the following principles, whilst noting that the detailed wording of the Scrutiny Procedure Rules will be brought to a future meeting of the Governance Committee in advance of the Annual General Meeting of the Council on 7th May 2025:**

- **That Cabinet Advisors cannot sit on the Overview & Scrutiny Committee;**
- **That Cabinet Advisors can sit on select committees provided the remit of the select committee does not conflict with the portfolio supported by the Cabinet Advisor;**
- **With regard to call-in that:**
  - **Specific and reasonable reasons for call-in must be stated;**
  - **The Monitoring Officer will consider the validity of any call-in application and consult with the Chair of Overview & Scrutiny in advance of rejecting any application;**
  - **All executive decisions are subject to call-in with the exception of decisions to note reports and decisions to recommend matters for onward consideration and decision by Council; and**
  - **In order to be valid any application for call-in must be supported by a minimum of seven councillors that are not members of the Executive.**



### **Access to Information Rules**

- 7.47. The Access to Information Rules contain detailed provisions relating to the right to access information, including agenda and reports and to attend meetings, together with the provisions for exclusion of the press and public. Also details of the forward plan and records of decisions.
- 7.48. The Rules were reviewed to ensure compliance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2021, Openness of Local Government Bodies Regulations 2014 and the Local Government Act 2000.
- 7.49. The Rules have been compared with Newham, Hackney, Tower Hamlets' Access to Information Rules and the style and language in all authorities' procedures are largely consistent.
- 7.50. There are no specific changes that were considered at workshop 1. A copy of the Access to Information Rules is appended to this report.

### **Recommendation:**

- 7.51. **To agree and endorse The Access to Information Rules, attached to this report as Appendix 7, for approval and adoption at the Annual General Meeting of the Council on 7th May 2025.**

### **Budget & Policy Framework**

- 7.52. The Framework contains details of the budget setting process and the provisions that apply to decisions outside the agreed budget.
- 7.53. The Framework has been reviewed for legal compliance and there are no issues of concern.
- 7.54. Set out below are the elements of the Budget & Policy Framework that were considered at workshop 1, together with the feedback from the workshop.
- 7.55. Budget Consultation - Should Overview & Scrutiny be entitled to conduct a further budget consultation exercise? Currently, the Framework allows the Overview & Scrutiny Committee (and any relevant select committee) to undertake additional budget consultation.
- 7.56. Period of time for Council to meet following a call-in referred to it – In limited circumstances, i.e., executive decisions outside the Budget & Policy Framework, the Overview & Scrutiny Committee can refer the matter to Council. Currently, the Framework allows 10 days for the Council meeting to be held. The workshop was asked if this 10 day period is too short? A review of other mayoral authorities is set out below:
- Newham – No timescale is prescribed for holding of the Council meeting.
  - Tower Hamlets - 21 days (or 28 days if next scheduled meeting of Council is in that time).
  - Hackney – The next ordinary meeting of Council.
- 7.57. The views of the workshop can be summarised as follows:
- There was support for the removal of the additional budget consultation provisions;

- There was support for an extension of the 10 pay period for a Council meeting being held following a call-in referral for a matter outside the Budget & Policy Framework.

7.58. The Officer recommendation to the Governance Committee is that the Budget & Policy Framework is amended as follows:

- References to Overview & Scrutiny Committee or any of its sub committees undertaken requiring that additional budget consultation is undertaken are removed.
- The period of time for Council to meet following a call-in being referred to it by the Overview and Scrutiny Committee be amended to 21 days.

**Recommendation:**

7.59. **With regard to the Budget & Policy Framework, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7th May 2025:**

- **References to Overview & Scrutiny Committee or any of its sub committees undertaken requiring that additional budget consultation is undertaken are removed;**
- **The period of time for Council to meet following a call-in being referred to it by the Overview and Scrutiny Committee be amended to 21 days;**
- **The full Part 4 – Budget & Policy Framework, attached to this report as Appendix 8.**

## **8. Financial implications**

8.1. Not Applicable

## **9. Legal implications**

9.1. The report has been prepared by the Council's Monitoring Officer and all legal matters have been addressed in the body of the report.

## **10. Equalities Implications**

10.1. As part of the holistic review of the constitution, and in line with the Council's approach to changing or creating significant policies, an Equalities Impact Assessment screening has been drafted to ensure an ongoing review of the potential equalities impact of the decisions made.

10.2. At the first stage of the constitutional review, it is not anticipated that there will be a significant positive or negative impact across any protected characteristic as a result of the proposed changes to the constitution. A small positive impact is currently anticipated overall as a result of changes that will make the constitution more accessible, including improving how residents access it through the Council's website and improving its readability.

10.3. The potential impact of proposed changes across protected characteristics will continue to be assessed with final equalities implications included in a report to the Council's AGM.

## **11. Background papers**

11.1. A copy of the Council's current Constitution is available at the following link: -

[Lewisham Council - Our constitution](#)

## **12. Report author and contact**

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**Director of Law & Corporate Governance**  
**Monitoring Officer**

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## **Appendix 1**

### **Part 1 – Summary & Explanation**

## **Part 1 - Summary and Explanation**

### **1. The Council's Constitution**

- 1.1 The London Borough of Lewisham has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.2 The Constitution sets out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### **2. How The Council Operates**

- 2.1 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.
- 2.2 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.
- 2.3 The Mayor is elected to lead the Council. They serve for a period of four years. They must act in the interests of the borough as a whole. The Mayor 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.
- 2.4 Council will appoint a Chair, to be known as the Speaker, who will preside at Council meetings and interpret the Constitution at those meetings.

### **3. Decision Making Structure**

#### **3.1 The Council**

The Council acts as one body. It holds meetings to which all councillors and the Mayor are invited. By law, some decisions have to be taken at meetings of the Council. 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.

#### **3.2 The Mayor**

The Mayor makes proposals to the Council about its main policies and the budget. Once agreed the Mayor 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.

### 3.3 The Executive

The Mayor appoints an Executive including themselves 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.

### 3.3 Overview and Scrutiny

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 is one overarching Overview and Scrutiny Committee. 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.

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 adopted a Scrutiny-Executive Protocol to resolve conflict between them. This is appended to the constitution.

### 3.4 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.

### 3.5 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.

### 3.6 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.

### 3.7 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.

### 3.8 Working Parties

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

#### **4. Delegating Decisions**

- 4.1 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.
- 4.2 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 they have made, and any such amendments will be incorporated into the scheme of delegation.
- 4.3 The Council's current scheme of delegation appears in Part 3 the Constitution. It will be reviewed at each Annual Meeting of the Council. Council delegations may be changed at any time by resolution and incorporated into the Constitution.

#### **5. Principles of Decision Making**

- 5.1 Details of how the Council makes decisions are set out in Part 2, Article 16 of this Constitution.

#### **6. Access to Council Meetings and Documents**

- 6.1 The Council will draw up and regularly update a plan, which sets out key decisions which are likely to be taken. For at least 28 days before a key decision is made, the plan will be available for public inspection. It will say how views may be expressed on matters in the plan.
- 6.2 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.

#### **7. Finance, Contracts and Legal Matters**

- 7.1 The Council is subject to an independent audit of all Council accounts and appoints an Audit and Risk Management Committee 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.
- 7.2 The Council has adopted a procedure for the award of contracts. This is set out in the Constitution. The Council's Director of Law and Corporate Governance is authorised to take, defend, settle or otherwise participate in legal proceedings where they consider it appropriate to protect the Council's interest.

#### **8. General Rules of Procedure**

8.1 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.

## **9. Staff**

9.1 The Council has people working for it (called officers) to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A diagram of the Council's management structure is appended to 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
- Monitoring Officer (the Director of Law and Corporate Governance) – who is responsible for ensuring that decisions are lawful, the Constitution is kept up to date and there is proper access to Council information.
- Chief Finance Officer (the Executive Director for Corporate Resources) – who is responsible for the proper administration of the Council's finances and ensuring that expenditure is lawful and prudent.
- Director of Children's 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 Adult Social Care & Health) – who is responsible for the carrying out of adult social services.
- Scrutiny Officer (Head of Scrutiny and Policy) - 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.
- Data Protection Officer (Head of Information Governance)– who is responsible for ensuring compliance with data protection legislation.

9.2 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, which is attached to the Constitution.

## **10. Residents' Rights**

10.1 Residents have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes.

10.2 Where members of the public use specific Council services, for example, as a parent of a school pupil or as a Council tenant, they have additional rights. These are not covered in this Constitution.



### 10.3 Residents have the right to: -

- Vote at local elections if they are registered and entitled to do so;
- Contact their local councillor about any matters of concern to them. Contact details are available on the Council's website;
- Obtain an electronic copy of the Constitution;
- Attend meetings of the Council and its committees except where exempt matters are being discussed;
- Petition to request a referendum on the Council's form of governance;
- Find out, from the Council's Key Decision List, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- Attend meetings of the Cabinet where key decisions are being discussed or decided;
- Submit petitions to the Council;
- See relevant reports and background papers, and any record of decisions made by the Council;
- Complain to the Council within the formal complaints scheme;
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- Complain to the Councillor Conduct Committee if they have evidence which they think shows that a Councillor has not followed the Council's Member Code of Conduct;
- Inspect the Council's accounts and make their views known to the external auditor.

## 11. Ethics

11.1 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.

## 12. Allowances and Pay

12.1 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.

## 13. Publication of the Constitution

13.1 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.

## 14. Review of the Constitution

14.1 The Council will monitor and review the constitution periodically.

## **Appendix 2**

### **Part 2 – The Articles of the Constitution**

## **Part 2 – The Articles of the Constitution**

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**

1.1 The Constitution aims to: -

- vi) lead to effective and efficient Council decision making;
- vii) make it clear to local people who is making decisions on their behalf;
- viii) give Councillors and local people greater opportunity to engage directly;
- ix) 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

#### 3.2 Citizens' have the following 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.

#### 3.3 Citizens' participation in Council decision-making

For example, citizens may respond to consultation through the forward planning process, ask questions at most meetings of Full Council, contribute to investigations by overview and scrutiny panels, 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 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 (with or without modification) of the following plans and strategies, which will make up the Council's policy framework: -
  - Children and Young People's Plan
  - Crime and Disorder Reduction Strategy
  - Youth Justice Plan
  - Local Transport Plan
  - Development Plan documents, including plans and alterations that together make up the development plan
  - Statement of Licensing Policy (alcohol & entertainment)
  - Statement of Licensing Policy (Gambling)
- (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 for public consultation in connection with the production, alteration or withdrawal of development plan documents;
- (d) the approval of a development plan document for the purpose of its submission to the Secretary of State for independent examination under Section 20 Planning and Compulsory Purchase Act 2004;
- (e) decisions to prepare joint local development document(s) or to establish or to agree that a joint committee should act as the local planning authority under Section 28 to 31 Planning and Compulsory Purchase Act 2004 and the making of any request to the Secretary of State to revoke an order constituting a joint committee as the local planning authority;
- (f) 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 calculations and components, whether original or substitute, 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, investments or for determining the Council's minimum revenue provision and the issuing of any precept. 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;
- (g) adopting the Council's Constitution and any subsequent changes to it, subject to the provisions of Article 21;



- (h) adopting the Council's Member Code of Conduct and any changes to it;
- (j) 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;
- (k) 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;
- (l) the delegation of functions to committees;
- (m) 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 exercise of its functions;
- (n) making appointments to committees and making any amendments to their composition;
- (o) the promotion or opposition of a local Bill in Parliament or an Order under the Transport and Works Act 1992;
- (p) making, altering and revoking byelaws;
- (q) power to make appointments to outside bodies save where that power lies with the Mayor;
- (r) conferring the freedom of the borough;
- (s) changing the name of the borough;
- (t) approval and/or amendment of a scheme and the amounts of members allowances under prevailing legislation;
- (u) 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;
- (v) the appointment (and dismissal) of the Head of Paid Service;
- (w) approving the Statement of Accounts;
- (x) 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;
- (y) 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);
- (z) making an order to give effect to recommendations of a community governance review or to make a change in the governance arrangements under the 2007 Act
- (aa) Approval of the Council's pay policy statement under S38 Localism Act 2011;
- (bb) such other matters as are reserved to the Council from time to time, whether by the Constitution or by law,

#### 4.3 Council meetings

In every year in which there is no ordinary election of councillors, the Council will hold an Annual General Meeting in March, April or May. 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 Speaker and Deputy Speaker**

The Council will appoint a Chair, who will be known as the Speaker and a Vice-Chairman, known as the Deputy Speaker. 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 Overview and Scrutiny Committee.

#### **5.2 The role of the Speaker**

The Speaker, and in his/her absence the Deputy Speaker, 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, to comply with the political balance requirements of the Local Government and Housing Act 1989. No member of the Executive may serve on the Overview and Scrutiny Committee or its Sub Committees.

#### 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.

The law requires that the overview and scrutiny committee must have the 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 Article 8.

The law also requires that, subject to certain exceptions, members of the Council may refer relevant matters to the overview and scrutiny committee, or an overview and scrutiny select committee. This is dealt with in Part IV of the Constitution.

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 appoint the sub-committees as set out below. 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.

Public Accounts Select Committee	6–10 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	6–10 members of the Council (to be determined annually by the Council) who are not members of the Executive; 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	6–10 members of the Council who are not members of the Executive, the number to be determined annually by the Council.
Sustainable Development Select Committee	6–10 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	6–10 members of the Council who are not members of the Executive, the number to be determined annually by the Council.
Housing Select Committee	6–10 members of the Council who are not members of the Executive, the number to be determined annually by the Council.

#### 6.4 The role of the select committees

In relation to the activities within their remit, the select committees and will carry out the roles set out in paragraph 6.6 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.

#### 6.5 Roles common to scrutiny committees

The following roles are common to all scrutiny committees:

##### (a) *General functions*

- To review and scrutinise decisions 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 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/or 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/or 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 and 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 (Part IV E 10), 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 Committee. Once approved, 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 to place an item on the agenda of that select committee 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 Overview and Scrutiny Committee for decision.

## **6.7 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. In the event of there being overlap between the terms of reference between select committees, the Overview and Scrutiny Committee shall determine which Select Committee shall deal with the matter in question: -

### *Public Accounts Select Committee*

- (a) 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;
- (b) To investigate the possibilities for improving the Council's financial management practice and to make reports and recommendations to Executive or Council as appropriate;
- (c) To encourage the highest standards of financial custodianship where necessary overseeing training activity for all members in this area;
- (d) 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;
- (e) To receive reports as appropriate from the Audit Panel in respect of their overview of contract procedure rules and financial regulations;
- (f) To make recommendations and reports for consideration by the Executive or Council to improve procurement practice;
- (g) To scrutinise the effectiveness of the Audit Panel.

### *Healthier Communities Select Committee*

- (a) To fulfil all of the Overview and Scrutiny functions in relation to the provision of service by and performance of health bodies providing services for local people. These functions shall include all powers 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;
- (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 fulfil all of the Council's overview and scrutiny functions in relation to social services provided for those aged 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, Care Act 2014 and any other relevant legislation in place from time to time;
  - (f) To fulfil all of the Council's Overview and Scrutiny functions in relation to the lifelong learning of those 19 years or over (excluding schools and school related services);
  - (g) To receive referrals from 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 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.

#### *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 legislation pertaining to education 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 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.

#### *Safer Stronger Communities Select Committee*

- (a) To fulfil 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, including the following matters:
- - 1. to recommend to the Executive, the Council or an appropriate committee, proposals for policy development in relation to equalities issues;
  - 2. to analyse policy options as necessary to inform the proposals to be made to the Executive or other appropriate committee;
  - 3. 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;
  - 4. 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;
  - 5. 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;
  - 6. to pilot methods of consultation and involvement and to report back to the Executive or appropriate committee on their effectiveness with recommendation if appropriate;
  - 7. to establish links with and liaise with external organisations in the borough which are concerned with the promotion of equality of opportunity.
- (c) 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, air quality, 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 Documents 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 the matters listed at (i) to (v) above.
- 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 fulfil 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 improving, increasing and enhancing housing in the borough, 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.

#### 6.8 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.

The Council has established joint health and overview scrutiny committees, the Terms of Reference for which appear at Appendix 5 and 6.

#### 6.9 Task and Finish Groups

The Overview & Scrutiny Committee may from time to time appoint sub-committees to be known as task and finish groups which will exist for a period of no less than 3 months, nor more than 12 months from the date of their creation.

Any task and finish group shall consist of 5 members and be established for the purpose of examining a particular issue in depth. The terms of reference of any task and finish group shall be agreed by the Overview and Scrutiny Committee

which shall also appoint members to it.

Any task and finish group that is established from time to time by the Overview and Scrutiny Committee to consider any and all education themed topics, shall consist of 5 elected members plus the invited parent and diocesan representatives.

All parent and diocesan representatives who attend an education themed task and finish group shall have full voting rights.

#### 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 alter the terms of reference of existing select committees or change their composition. 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 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 Overview and Scrutiny Committee would change in a manner other than to effect a change which, in the opinion of the Monitoring Officer, is minor.

#### 6.11 Membership of the overview and scrutiny committee

Members of the Executive may not serve on the Overview and Scrutiny committee, select committees, Task and Finish Groups or any joint overview and scrutiny committee.

#### 6.12 Proceedings of overview and scrutiny committee

All proceedings of the Overview and Scrutiny Committee and select committees will be conducted in accordance with the overview and scrutiny procedure rules appearing at Part IV of the Constitution.

#### 6.13 Political balance

The overview and scrutiny committee and its sub-committees, including task and finish groups, 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.

## ARTICLE 7

### THE EXECUTIVE

#### 7.1 Composition of the Executive

By law, 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. The Mayor 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 delegations for executive functions, which are included in Part [ ] of the Constitution.

#### 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) members of 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 lead member for Children's Services, unless they delegate elsewhere.

#### 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. They will be entitled to speak, participate in the debate and vote at any meeting of the full Council they attend in accordance with the provisions of the Constitution. They will also answer questions from councillors and the public at such meetings as set out in the Council's Procedure Rules;
- (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, task and finish group or joint overview and scrutiny committee;
- (e) The Mayor is subject to the Members' Allowances Scheme in place from time to time;
- (f) The Mayor is subject to the same rules relating to casual vacancies as apply to all councillors;

## 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 they resign 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 their 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.
- (d) *Removal from office* – The Deputy Mayor holds office until they resign 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 them 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 they have 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 their 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 Speaker nor Deputy Speaker 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 they 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. They 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 their 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 they resign 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 them 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 they have 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 their 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 detailed in Part IV of the 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 and in the agreed Scrutiny-Executive protocol.



## ARTICLE 9

### COMMITTEES

9.1 The Council has established the following committees, as set out with their terms of reference below: -

<b>Committee</b>	<b>Composition</b>	<b>Terms of reference</b>
<p><b>Planning Committees</b></p> <p>Committee A and Committee B, no geographical boundaries</p>	<p>10 members of the Council, including no more than 1 member from each Council ward</p>	<p>All non-executive, (except for any 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 buildings;</li> <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</li> </ul>

		<p>this Constitution including those set out in the Schedule of relevant statutes in the Scheme of Delegation;</p> <ul style="list-style-type: none"> <li>• to authorise the Director of Law and Corporate Governance 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>
<b>Strategic Planning Committee</b>	<p>8 members of the Council who shall be the chairs and vice chairs of each of Planning Committee A and Planning Committee B, two Cabinet Members nominated by the Mayor and one other member from each of the other Planning Committees.</p> <p>The Chairs of Planning Committees A and B will be Chair and Vice Chair of the Strategic Planning Committee, alternating roles for each meeting.</p>	<p>To consider applications that fall within Parts 1-4 of the Schedule to the Town and Country Planning (Mayor of London) Order 2008.</p>
<b>Licensing Committee</b>	<p>Ten members of the Council with up to five sub-committees each consisting of three members of the main Committee. Every member of the main Licensing Committee acts as substitute for any member sitting on any Licensing Sub-Committee or Urgency Sub Committee</p>	<ul style="list-style-type: none"> <li>• To oversee the discharge of all licensing functions of the Council as the licensing authority under the provisions of the Licensing Act 2003, and the Gambling Act 2005, except the determination of the Council's statement of Licensing Policy and the publication of that Statement (pursuant to the Licensing Act 2003), and the determination of the Council's Statement of Licensing Policy, the publication of that Statement and any Policy not to permit casinos (pursuant to the Gambling Act 2005). References to the Licensing Act and Gambling Act in these terms of reference include amendments thereto, regulations made under them and any other relevant legislation in place from time to time;</li> </ul>

		<ul style="list-style-type: none"><li>• 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 Director of Public Protection and Safety 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 Director of Public Protection and Safety considers more appropriate for consideration by the main committee. Without limiting the discretion of the Director of Public Protection and Safety 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;</li><li>• 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;</li><li>• To make regulations for the conduct of meetings of the committee and sub-committees in accordance with Section 9(3) of the Licensing Act 2003;</li></ul>
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		<ul style="list-style-type: none"> <li>• 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;</li> <li>• 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.</li> </ul>
<b>Licensing (Supplementary) Committee</b>	The members and the Chair and Vice-Chair of the Licensing (Supplementary) Committee shall be identical to those of the Licensing Committee	From time to time, 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.
<b>Pensions Investment Committee</b>	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 quarterly basis;</li> <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>

<b>Health and Safety Committee</b>	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
<b>Governance Committee</b>	6 members of the Council no more than one half of whom may also be members of the Executive	<p>The Committee may exercise certain powers in relation to the holding of elections and the maintenance of the electoral register, and may from time to time advise the Council where the law requires that the decision may only be taken by full Council: -</p> <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> <li>• 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.</li> </ul>
<b>Appointments Committee</b>	The Chair of Overview & Scrutiny, and two executive members as the	<ul style="list-style-type: none"> <li>• The recruitment and selection of chief officers and deputy chief officers (excluding the Head of Paid Service) in accordance with regulations relating to</li> </ul>

	<p>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 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>The membership of the Appointments Committee when it sits as the Standing Investigating and Disciplinary Committee shall include at least one executive member.</p>	<p>such appointments in force from time to time;</p> <ul style="list-style-type: none"> <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 by law this appointment is a decision for the full Council;</li> <li>• To agree the terms and conditions of employment of the Head of Paid Service as well as the monitoring of his/her performance against targets set for the Head of Paid Service by the Mayor;</li> <li>• In respect of the Chief Executive, s151 Officer and Monitoring Officer, to act as the Standing Investigating and Disciplinary Committee in accordance with the National Joint Committee for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook, or such other national agreement in place from time to time (the Framework) and in this respect: - <ul style="list-style-type: none"> <li>• To consider whether, in respect of the Chief Executive, s151 Officer or Monitoring Officer, there is a case to answer in respect of any substantive allegation made relating to his/her conduct or capability and any other substantial issue that requires investigation;</li> <li>• To appoint an Independent Investigator in accordance with the Framework, where the Committee is satisfied that there is a case to answer;</li> <li>• To receive the findings of the Independent Investigator and to decide what action, if any, should be taken as a result of the outcome of the investigation. Such action might be informal resolution, further investigation, a proposal to dismiss or some other action short of dismissal;</li> <li>• Where the Committee decides to make a proposal to dismiss, to refer the matter for consideration by an Independent Panel constituted in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended, or such</li> </ul> </li> </ul>
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		<p>other relevant legislation in place from time to time;</p> <ul style="list-style-type: none"> <li>• The Committee may, where it considers it necessary to do so, suspend the Chief Executive, Monitoring Officer or s151 Officer whilst any investigation in to his/her conduct or capability is ongoing.</li> <li>• To do all things necessary to enable the Committee to carry out the above functions effectively;</li> <li>• The quorum for the Appointments Committee shall be 3.</li> </ul>
<b>Standards Committee</b>	10 councillors, not more than one of whom may be a member of the executive and 6 co-optees	The terms of reference for the Standards Committee are detailed in Part V of the Constitution.
<b>Audit and Risk Management Committee</b>	Consisting of 6 non-executive Councillors, one of whom shall serve as chair and up to 4 independent co-opted members	<ul style="list-style-type: none"> <li>• To receive, review and where appropriate advise and make recommendations to the Council on the following matters: -</li> <li>• The review and approval of the Council's Internal Audit 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 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 auditor;</li> <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</li> </ul>

		<p>procedure rules, contract procedure rules, and financial regulations;</p> <ul style="list-style-type: none"> <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>
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9.2 The Council has established a Health and Wellbeing Board. The membership and terms of reference of the Health and Wellbeing Board are as follows: -

<b>Body</b>	<b>Composition</b>	<b>Terms of Reference</b>
Health and Wellbeing Board	<p>The Mayor and such councillors as they may appoint;</p> <p>The Council's Executive Director with responsibility for Public Health;</p> <p>The Council's Executive Director for Children &amp; Young People;</p> <p>The Council's Director of Public Health;</p> <p>One representative of the Local Healthwatch Organisation for the area;</p> <p>One representative of the Lewisham Clinical Commissioning Group;</p> <p>Such other persons or representatives of such other persons as the Council thinks appropriate. This will normally include two representatives of the voluntary sector.</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</li> </ul>



	<p>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 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>commissioning group will prepare a strategy for meeting the needs included 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>
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9.3 The Council has established a Pension Board. The membership and terms of reference of the Pension Board are as follows: -

<b>Body</b>	<b>Composition</b>	<b>Terms of reference</b>
Pension Board	Two employer representatives, and	To fulfil the statutory functions imposed upon Pension Boards by the Public Service Pensions Act 2013, the Local Government Pension Scheme

	<p>2 scheme member representatives,</p> <p>All appointed in accordance with the Pension Board's Terms of Reference as approved &amp; published by the Council from time to time.</p> <p>One other member as the Council may from time to time appoint to act as independent Chair, such member not to have any voting rights.</p>	<p>Regulations 2013 as amended, any subsequent amendment thereto and any other relevant legislation in place from time to time</p> <p>In particular to assist the Council and advise it upon measures as administering authority to secure compliance with the Local Government Pension Scheme Regulations and other legal requirements, and generally to ensure that there is efficient and effective governance and administration of the fund at a local level.</p> <p>To report annually to the Council in relation to the above for inclusion in the Council's annual governance statement</p>
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## **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

### POSITIVE AGEING COUNCIL/PUBLIC TRANSPORT LIASION FORUM

#### 12.1 Positive Ageing Council

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.

#### 12.3 Public Transport Liaison Forum

The Council has also established a Public Transport Liaison Forum to provide councillors and the public with the opportunity to discuss operational problems with public transport providers. Though not a Council decision making body it is an important channel for consultation to ensure that issues of concern can be raised. Its Terms of Reference appear below.

<b>Body</b>	<b>Composition</b>	<b>Terms of reference</b>
Public Transport Liaison Forum	Chair and Vice-Chair of Sustainable Development Select Committee and the Cabinet Member(s) with for regeneration and transport	<p>The Public Transport Liaison Forum will provide a place for councillors and members of the public to meet with public transport providers operating in Lewisham in order to:</p> <ul style="list-style-type: none"><li>• enable local users of transport services to raise issues with providers of public transport services;</li><li>• enable transport providers to supply responses to those issues and further information about services and proposed services to local users.</li></ul>

## **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 the Openness of Local Government Bodies Regulations 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 designates the following posts as statutory officers: -

Post	Designation
Chief Executive	Head of Paid Service Section 4 Local Government and Housing Act 1989
Director of Law and Corporate Governance	Monitoring Officer Section 5 Local Government and Housing Act 1989
Executive Director for Corporate Resources	Chief Finance Officer Section 151 Local Government Act 1972 and 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 Scrutiny and Policy	Scrutiny Officer 9FB Local Government Act 2000.
Director of Public Health	Director of Public Health Section 30 Health & Social Care Act 2012
Head of Information Governance	Data Protection Officer – General Data Protection Regulations and Section 69 Data Protection Act 2018

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* – responsibility for appropriate record keeping for all Council decisions.
- (e) *Report to Council* – the Head of Paid Service will report to Council where he considers it appropriate to do so, 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.  
*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 maladministration. 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 and will fulfil the role required by Part III Local Government Act 2000, and any relevant amendments thereto;
- (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) *Advising whether executive decisions are within the policy framework and budget* - The Chief Finance Officer will advise whether decisions of the executive are in accordance with the policy framework and budget;
- (e) *Give financial information* - The Chief Finance Officer will provide appropriate financial information to the media, members of the public and the community;
- (f) *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 Section 30 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 Duties of the Data Protection Officer**

- To ensure compliance with data protection legislation by the Council;
- To advise the Council, members and officers on their duties under data protection legislation;
- To monitor compliance with those duties;
- To be the Council's main contact with the Information Commissioner.

#### **14.13 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.

#### **14.14 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 General 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 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 they have 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 Scheme of Delegation and reported to full Council.

#### **15.3 A scheme of delegation**

The 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:

1. Any decision with a total value, expenditure or savings, including any grant and/or matched funding, with a total value in excess of:
  - a. £700,000 in revenue; or
  - b. £1.5m in capital; or
  - c. A property transaction, disposal or acquisition, in excess of £1.5m.
2. Any decision that, in the opinion of the Monitoring Officer, has a significant impact on the communities in two or more wards;
3. Where the Speaker 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.

The financial thresholds will be adjusted annually, on 1st April to reflect any movement in the Consumer Prices Index

Notwithstanding the above, decisions taken by officers in relation to the provision of personal services for individual service users e.g. decisions about the placement of a vulnerable adult in residential care, are not key decisions.

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, overview and scrutiny committees and individual members to whom decision making power is delegated, will make decisions.

### **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 regulations 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 Director of Law and Corporate Governance or such person as they nominate.

The Common Seal of the Council will be kept in a safe place by the Director of Law and Corporate Governance. 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 Director of Law and Corporate Governance, ought to be sealed.

#### **17.3 Legal proceedings**

The Director of Law and Corporate Governance 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 Director of Law and Corporate Governance 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 Director of Law and Corporate Governance 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.

<b>Independent Review Panel</b>	To review decisions in relation to permanent school exclusions.
<b>Admission Appeal Panel</b>	To deal with appeals against refusal of school admission.

## **ARTICLE 19**

### **STANDING ADVISORY COUNCIL ON RELIGIOUS EDUCATION (SACRE)**

The Council has established a SACRE to advise it on matters relating to religious worship in community and foundation schools; to produce an agreed or other syllabus and to carry out such functions as are required by Section 394 Education Act 1996 or otherwise by law.

It shall have the composition set out in Appendix 7 to the Constitution



## **ARTICLE 20**

### **SCHOOLS FORUM**

The Council will establish a Schools Forum to advise it on certain matters relating to schools' budgets and with whom the Council will consult as required by law. The composition and terms of reference of the Schools Forum are set out in Appendix 8 to the Constitution.

## **ARTICLE 21**

### **YOUNG MAYOR**

Each year, unless the Mayor decides to the contrary, the Council will appoint a Young Mayor, elected following a poll of young people in Lewisham. The Young Mayor: -

- May present an annual report to the Mayor and Cabinet; and
- Will have the right at any full Council meeting to ask a question of the Mayor, any member of the Cabinet or any committee or sub committee chair; and
- may make a written submission relevant to a matter under consideration by a time limited task and finish group established by the Overview and Scrutiny Committee.

## ARTICLE 22

### REVIEW OF THE CONSTITUTION

#### 22.1 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. 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.

#### 22.2 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. Any decision to move to a different form of governance, following referendum must be taken by full Council.

This provision shall not apply where in the professional opinion of the Monitoring Officer, in consultation with the Chief Executive, the Constitution requires amendment without delay. In these circumstances, the Monitoring Officer will notify the Speaker of the Council, the Chair of the Governance Committee and the Chief Executive of the amendment and the reasons for it within 24 hours.

The Monitoring Officer will also notify all members of the Council of the amendment and the reasons for it within five working days.

The Council's Website will be updated within five working days.

## **ARTICLE 23**

### **PUBLICATION, INTERPRETATION AND SUSPENSION**

#### **23.1 Publication**

- (a) The Monitoring Officer will give an electronic version of this Constitution to each member of the Council following their declaration of acceptance of office of 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, any other appropriate locations considered appropriate and 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.

#### **23.2 Interpretation**

At any meeting of the Council, the ruling of the Speaker 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.

#### **23.3 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.

## **Appendix 3**

### **Part 3 – Responsibility for Functions**

## **Part Three**

### **Responsibility for Functions**

#### **1. Introduction**

- 1.1 Local authority functions are split between “executive functions”, which are the responsibility of the Mayor and Cabinet and “non-executive functions” which are the responsibility of Full Council and its committees.
- 1.2 Whether a function is an executive or non-executive function is specified in legislation - the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 1.3 The Council is required to explain when a function is delegated to Committees, Sub-Committees, Officers, etc. The Council does this through the Terms of Reference of those Committees, set out in Part 2 of this Constitution, and in Schemes of Delegation to Officers, set out in Part 3, below, of Constitution.
- 1.4 The Mayor is entitled to carry out all of the Council’s executive functions. The Mayor retains this entitlement whether or not they choose to delegate any or all of these functions. 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. The Mayor 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.
- 1.5 The Mayor will prepare and keep up to date a schedule of delegation for executive functions, which are included in Part 3, below, of the Constitution.

#### Chief Executive Urgency Provisions

- 1.6 Where an urgent action is necessary to protect the interests of the Council, or the inhabitants of the Borough, in connection with an executive function, that requires a decision before a meeting of the Executive can be called; the Chief Executive, after consultation with the Mayor and the Monitoring Officer, shall have power to act and shall report the action to the next meeting of the Executive.
- 1.7 Urgent action shall not be subject to the call-in procedure and may be implemented with immediate effect.
- 1.8 Where the Chief Executive considers that urgent action is necessary to protect the interests of the Council, or the inhabitants of the Borough, in connection with a non-executive function, that requires a decision before a meeting of Council or the appropriate committee can be called; the Chief Executive, after consultation with the Speaker and the Monitoring Officer, shall have power to act and shall report the action to the next meeting of Council or the relevant Committee.

#### **2. Local Choice Functions**

- 2.1 In addition to executive and non-executive functions there are also ‘local choice’ functions, and the Council is able to decide whether those functions should be exercised by the executive or by Council. The table below sets out how the Council

has decided to allocate responsibility for these local choice functions.

<b>Function</b>	<b>Executive/Non-Executive</b>
Functions under local legislation (save those prohibited to the Executive by law)	Executive function
The determination of appeals against any decision of the Council	Executive function
The appointment of review boards under regulations made under Section 34(4) Social Security Act 1998 (determination of claims and review)	Executive function
Making arrangements for appeals against exclusions of pupils from maintained schools	Executive function
Making arrangements for admissions appeals under Section 94(1) (1A) and (4) School Standard and Framework Act 1998	Executive function
Making arrangements for appeals by governing bodies under Section 95(2) School Standards and Framework Act 1998 in respect of children who have been excluded from 2 or more schools	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 and the revocation of any such appointment	It will be the responsibility of the Executive to make the following appointments: - The Local Government Association; London Councils and all its subsidiary bodies; All bodies established to

	<p>give effect to the BSF programme in Lewisham, including but not limited to Lewisham Local Education Partnership and any other joint venture company established under the BSF programme;</p> <p>Lewisham Homes Limited;</p> <p>Thames Gateway London Partnership;</p> <p>The South East London Waste Disposal Group (SELWDG);</p> <p>Newable (formerly Greater London Enterprise Limited);</p> <p>Lewisham Health and Care Partnership;</p> <p>The South East London Combined Heat and Power (SELCHP);</p> <p>The Catford Regeneration Partnership Ltd;</p> <p>Any other bodies, which in the opinion of the Monitoring Officer, are of a similar nature.</p> <p>The making of any other appointments will be 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>

### **3. Terms of Reference – Committees, etc**

- 3.1 The terms of reference for all of the various committees, sub-committees, commissions, boards etc are set out in Article 9 under Part 2 of the Constitution.

### **4. Scheme of Delegation to Officers**

- 4.1 Part Three of the Constitution describes the overall areas of responsibility for the Council, the Executive and for Committees and Sub-Committees. However, to ensure that the Council runs efficiently, it is necessary for some decisions to be taken by officers. Certain types of decision must by law be delegated to an officer rather than being determined by Members. These include the appointment and dismissal of officers below Director level, discharge of the duties of the Returning Officer in elections and the Proper Officer functions. Other Council functions must



by law be determined by Members, for example, setting the Council Tax and adopting the plans or strategies constituting the Council's Policy Framework. For the great majority of local authority functions, it is a matter of local choice for the Council whether they are exercised by Members or delegated to officers.

- 4.2 This Section describes the functions, powers and duties delegated to the most senior officers of the Council within their areas of responsibility. All functions and decisions not reserved to Members - either the Executive, full Council or one of their Committees or Sub-Committees are delegated to officers.
- 4.3 In understanding the Officer Scheme of Delegation it is important to recognise the respective roles of Members and officers. Members and officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve until their term of office expires. As elected Members, they are responsible for determining Council Policy and Strategy. Officers are employed by, and are responsible to, the Council and as such are responsible for implementing policy and delivering services. Their job is to give advice to members and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their committees and the management of the Chief Executive and relevant Executive Director.
- 4.4 This scheme, which includes the Council functions and the Mayor's delegation of executive functions is agreed by the Council at its Annual General Meeting and operates from the date approved by Council.

## **5. General Principles of the Officer Scheme of Delegation**

- 5.1 For the purposes of officer delegated powers, both within this part of the Constitution, the term "Director" shall include the following officers:
  - The Chief Executive;
  - The Chief Executive's Executive Management Team (Executive Directors and the Monitoring Officer).
- 5.2 For the purposes of officer delegated powers, the term "Statutory Officers" means:
  - The Monitoring Officer - This role is held by the Director of Law & Corporate Governance;
  - The S151 Chief Finance Officer - This role is held by the Executive Director of Resources;
  - The Director of Adult's Services – This role is held by the Executive Director of Adult Social Care & Health;
  - The Director of Children's Services – This role is held by the Executive Director of Children & Young People; and
  - The Director of Public Health
- 5.3 Any functions delegated shall be exercised by Executive Directors in respect only of the specific services for which they are responsible and in accordance with the following general principles: -
  - All other parts of the Constitution in particular the Financial Regulations and the Contract Procedure Rules;
  - The Budget and Policy Framework;
  - The approved Budget;

- Any instructions given by the Chief Executive;
  - Any advice given by the Monitoring Officer;
  - Any advice given by the Council's Chief Finance Officer (S151 officer);
  - All legal requirements and any statutory codes of conduct or statutory Guidance;
  - All codes, policies and protocols as may be approved by the Council or the Executive or one of their Committees or Sub-Committees; and
  - Any relevant decisions of the Council or the Executive or one of their Committees or Sub-Committees.
- 5.3 Any function delegated to an officer may also be exercised by any officer who has been so authorised by the officer to whom the function is delegated, or by the Chief Executive. Such authorisations shall be recorded and held by the officer making the authorisation. Officers authorised under this provision to exercise a power delegated to another officer should be either fully or generally under the supervision and control of the authorising officer. This does not apply to functions delegated to the officers acting in the statutory capacity of the Council's Chief Finance Officer (s151 officer) or the Monitoring Officer. These functions may only otherwise be exercised by the Director for Finance or Deputy Monitoring Officer as named in writing by the post holder.
- 5.4 Functions delegated by reference to job titles or posts which have changed will continue in force and shall be exercised by officers whose duties include or most closely correspond to the duties of the post originally referred to.
- 5.5 Where a post is vacant, or the officer is absent or otherwise unable to act, and no officer has been appointed in an 'acting capacity', any functions delegated may be exercised by the Executive Director whose duties include or most closely correspond to the function in question; save in relation to the Council's Chief Finance Officer (s151 officer) or the Monitoring Officer where functions may only be exercised in accordance with arrangements that have been authorised in writing by the post holder.
- 5.6 Any reference to legislation in this scheme shall include any act, statutory instrument or subordinate legislation by which it is applied, extended, amended, consolidated, repealed or replaced.
- 5.7 It shall always be open to an officer to consult with the Committee or with appropriate Members on the exercise of delegated powers; or not to exercise delegated powers but to refer the matter to the Cabinet, the Leader, relevant Cabinet Member or to a Committee of the Council.
- 5.8 In the event of a "catastrophic incident", declared by the Secretary of State to be imminent or to have occurred, all Council officers are authorised to take any action in accordance with the instructions of the Chief Executive or any external Chief Executive appointed to coordinate the actions of some or all London local authorities.
- 5.9 This scheme does not delegate the following to officers: -
- Any matter reserved that is reserved to Members - either the Executive or Council or one of their Committees or Sub Committees; and

- Any matter which by law may not be delegated to an officer.

## **6. Protocol for Officers Taking Decisions under Delegated Powers**

6.1 There is no prescribed form for officers taking delegated decisions. Different types of report or record appropriate to the circumstances may be used provided the essential details are recorded in writing in every case. These are: -

- The post title of the officer taking the decision;
- The substantive facts, including what is being decided;
- The reasons for the decision;
- The expenditure authorised (if any);
- The date the decision was taken;
- Details of any alternatives considered and rejected by the officer taking the decision; details of any conflict of interest declared by any cabinet member who is consulted by the officer which relates to the decision; and
- In respect of any officer's declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

6.2 The officer taking the decision is responsible for ensuring that all relevant points are recorded which may include, but are not limited to, the following: -

- Any financial implications (beyond stating the expenditure);
- Any legal implications;
- Any environmental implications;
- Any equalities implications;
- Any relevant Council policies;
- Any relevant national or regional guidance;
- Any consultations undertaken and the views of consultees;
- Any other implications for service delivery in the relevant service area;
- Any implications for other Council services outside the service area;
- Any comments from other affected service areas;
- Any staffing implications;
- Any background documents relied upon;
- Any information in the report or background documents that could or should be restricted from public disclosure as confidential or exempt information under the Freedom of Information Act 2000;
- Any alternative options to the recommended decision; and
- Any consultation with Members (whether Cabinet Members, Chairs or Ward Members).

6.3 Officers taking delegated decisions should always consider carefully whether there are any factors that would make it advisable to consult the relevant Cabinet Member(s) or Chair of Committee in advance, for example, the sensitive or controversial nature of the decision.

6.4 The officer exercising delegated powers is responsible for ensuring that all decisions taken are properly recorded in accordance with the procedure for the relevant service area or function concerned. Each Executive Director will keep their own central record of all delegated decisions taken within their constituent services.

## **6. Schemes of delegations for each directorate**

- 6.1 Each Executive Director will establish a scheme of delegation for their directorate or budget area which specifies the function, names the post which may carry out that delegated decision and explain any limits on the delegation. The limits on delegation may include the obligation to consult, record and/or refer back to the Executive Director in certain circumstances.
- 6.2 The Monitoring Officer will specify the format for the scheme of delegation and may issue guidance to Executive Directors from time to time.
- 6.3 Each Executive Director has a duty to review their directorate scheme of delegation at least half-yearly and otherwise keep their directorate scheme of delegation up to date to take account of any legislative changes, changes in job titles etc.
- 6.4 It is the responsibility of each Executive Director to provide a copy of their directorate scheme of delegation to the Monitoring Officer within 2 working days of it being amended or updated.

## **7. Proper Officer Functions**

- 7.1 Certain Officers, known as “Proper Officers”, are designated to carry out certain functions.
- 7.2 References in this Constitution to the proper officer shall, unless specifically stated to be another officer, 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.
- 7.3 The Director of Law & Corporate Governance (Monitoring Officer) is the proper officer in respect of the following matters: -
  - The Council Procedure Rules;
  - The Executive Procedure Rules;
  - The Committee Procedure Rules;
  - Access to information – to 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;
  - 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);
  - 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)
  - 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;
  - 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;

- 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;
- 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;

To determine applications in relations to Town Greens.

## **Appendix 4**

### **Part 4 – Rules of Procedure Council Procedure Rules**

## COUNCIL PROCEDURE RULES

- 1 Types of meeting
  - 1.1 There will be three types of Council meeting:
    - Annual Meeting
    - Ordinary meetings
    - Extraordinary meetings
  - 2 The Annual Meeting
    - 2.1 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 Annual Meeting will deal with the following business in the order set out below:
      - To elect a person to preside if the Speaker is absent;
      - To elect a Speaker;
      - To appoint a Deputy Speaker;
      - To approve the minutes of the last meeting;
      - To receive any declarations of interest;
      - To receive announcements or communications, if any, from the Speaker, 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 them 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, membership, Chair and Vice Chair 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;
      - 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 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 Ordinary meetings of the Council will take place in accordance with a programme fixed for the year at the Annual Meeting. Meetings will take place in locations determined by the Proper Officer and notified in the summons to the meeting.

3.2 Ordinary meetings will deal with the following business:

- To elect a person to preside if the Speaker and Deputy Speaker are not present;
- To approve the minutes of the last meeting;
- To receive any declarations from members;
- To receive any announcements from the Speaker, 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 Speaker, 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 their nominee) in relation to any key decisions which have been taken under the general urgency provisions special urgency provisions;
- To consider motions;
- To consider any other business specified in the notice convening the meeting including but not limited to:
  - a) proposals from the Executive in relation to the Council's policy framework and budget;
  - b) reports referred by overview and scrutiny committees for debate;
  - c) any matters referred to the Council for conflict resolution.

3.4 The Proper Officer will call ordinary Council meetings and will give notice in accordance with these rules.

3.5 At the relevant ordinary meeting of the Council when the Council's Budget and Council Tax is approved and set, the agenda will be limited to consideration of the budget report, including the Mayor and Cabinet's recommendations for the Budget, Capital Programme, Borrowing Policy and Council Tax together with any items the Proper Officer, in consultation with the Speaker, has agreed be taken as urgent.

### 4 Extraordinary meetings

4.1 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 Extraordinary meetings will deal with the business set out below in that order:
- To choose a person to preside if the Speaker and Deputy Speaker are not present;
  - To approve the minutes of the last meeting of the Council;
  - To receive members' declarations of interest if any;
  - To receive reports of the Executive or Committee relevant to the business specified in the summons to the meeting;
  - To consider any business specified in the summons to the meeting.
- 4.4 Extraordinary meetings of Council shall not deal with any announcements, petitions, public questions, member questions or motions on notice.
- 4.5 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 Speaker or in their absence the Deputy Speaker;
  - The Mayor;
  - The Head of Paid Service, Monitoring Officer and/or Chief Finance Officer;
  - Any five members of the Council if they have signed a requisition which has been delivered to the Speaker if they have refused to call a meeting or has failed to call one within 7 days of the presentation of the requisition.
- 5 Notice of date, time and place of meeting
- 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.
- 6 Variations in the order of business at a Council meeting
- 6.1 The order of business at any Council meeting may be varied at the discretion of the Speaker, or on a motion to do so which shall be moved and put to the vote without discussion.
- 7 Council Urgency Committee

- 7.1 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 A Council Urgency Committee shall be established at the annual meeting of the Council and will consist of the Speaker, 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. If present the Speaker will chair the meeting. If the Speaker is not present but the Deputy Speaker is present, they shall chair the meeting. If neither is present, the Urgency Committee will elect a chair for the meeting from among the non-executive members present.
- 7.3 The quorum for the Council Urgency Committee shall be three.
- 7.4 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 The Council Urgency Committee shall meet as often as necessary, to deal with business referred to it by the Chief Executive.
- 7.6 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 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 they may nominate in writing is entitled to act in respect of any urgent decision to be made by the Council.
- 7.8 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 Speaker is present at a meeting of the Council, then they must preside at the meeting.
  - 8.2 If the Speaker is absent, the Deputy Speaker will preside.
  - 8.3 If both the Speaker and Deputy Speaker 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 Speaker 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 Speaker.
- 8.5 References to the Speaker in these Rules shall include any person presiding at a meeting of the Council, its Committees and Sub Committees.
- 8.6 The ruling of the Speaker 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 they so request, they 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 within whose portfolio a matter falls, shall have the right to speak after the Mayor, should they wish.
10. Duration of Council Meetings & Guillotine Provisions
- 10.1 The Speaker shall interrupt proceedings where any meeting has lasted for two and a half hours from the time published in the summons as the beginning of the meeting, whereupon any Member speaking shall stop speaking. The Chair shall, without discussion, take a vote on whether or not the Members wish the meeting to continue.
- 10.2 If the majority of Members present do not vote to continue the meeting, and there are outstanding matters that have not been dealt with by that time, the following provisions shall apply: -
- Any debate on the current item under consideration will immediately cease and the matter will be put to the vote immediately with no further speeches;
  - Any outstanding reports voted on without debate;
  - Any remaining motions will fall and are not carried forward to a future Council meeting.
- 10.3 This rule 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 Speaker that there may not be a quorum present at the meeting, they shall count the number present at the meeting.
- 11.4 Any councillor present at a meeting may ask the Speaker to count the number present to establish whether the meeting is quorate, and if so requested, the Speaker will conduct the count.
- 11.5 If, following the count, the Speaker is satisfied that there is not a quorum present, they 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 Speaker, or if they do not fix a time to the next ordinary meeting of the Council.

## 12. Political group leaders

- 12.1 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 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 Each member of the public may ask a maximum of two questions at any meeting. Any question of more than 100 words will be rejected. If more than two questions are asked, only the first two will be considered. Questions will be asked in the order in which notice of them was received except that the Speaker may group together similar questions.
- 13.3 Written notice of questions must be received by the Proper Officer by 23:59 on the fifteenth day before the meeting. Each question must state the name of the sender. Copies of the questions will be sent to the Speaker, the Mayor, every member of the Executive, the Chair of the Overview and Scrutiny Committee and the Chair of any relevant committee. Written responses to questions will be sent to the sender by 5pm on the working day prior to the meeting.
- 13.4 On receipt of a question from a member of the public, officers shall acknowledge the question and, if the question is allowed, explain the process for response, and that the questioner may attend the Council meeting to ask a supplementary question.
- 13.4 The Proper Officer may reject a question if, in their opinion:
  - i) It exceeds 100 words in length; or
  - ii) 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; or
  - iii) It is defamatory, frivolous or offensive; or
  - iv) It is substantially the same as a question which has been put and answered at a Council meeting within the last three months; or
  - v) It requires the disclosure of confidential or exempt information; or

- vi) That responding to the question would entail disproportionate labour or cost;  
or
- vii) That the question relates to the circumstances of an individual case; or
- viii) It relates to any investigation by the Monitoring Officer or Standards Committee.

- 13.5 The Proper Officer may put questions into an appropriate form without affecting the substance of the question and redirect them if necessary.
- 13.6 If any question is disallowed, the Proper Officer will write to the questioner explaining the reasons for that decision.
- 13.7 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.
- 13.8 The Speaker will announce that public questions have been received and answered and are included in the agenda pack.
- 13.9 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. If technology permits, supplementary questions may be asked virtually as well as in person.
- 13.10 Supplementary questions may only be asked by the questioner. Representatives are not permitted.
- 13.11 The total time for answering public supplementary questions at any Council meeting shall not exceed 30 minutes. Supplementary questions will be taken in the same order as the original questions, provided that the Proper Officer is notified in advance.
- 13.12 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 At an ordinary Council meeting, members of the Council may ask questions that are relevant to the general work or procedure of the Council.
- 14.2 Each member of the Council may ask a maximum of two questions at any meeting. Any question of more than 100 words will be rejected. If more than two questions are asked, only the first two will be considered.
- 14.3 Written notice of questions must be received by the Proper Officer by 23:59 on the fifteenth day before the meeting. Written responses to all questions will be circulated by 5 p.m. on the working day prior to the meeting.
- 14.4 No questions may be asked without notice except of the Speaker, with the Speaker's consent, and on a matter of urgency of which the Speaker will be the

judge. In such cases, the text of the question must be given to the Speaker in writing at least three hours before the meeting.

- 14.5 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 13.5 above.)
- 14.6 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 Speaker, or the Chair of the relevant committee.
- 14.7 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.
- 14.8 The form of the answer is at the discretion of the Speaker, Mayor, relevant Executive member or committee chair who may decline to reply where to do so would involve excessive labour and/or cost.
- 14.9 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 Speaker such a question may be the subject of a written reply within 14 days of the meeting. A copy of the reply will be sent to all members.
- 14.10 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.
- 14.11 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.
- 14.12 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.
- 14.13 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.
- 14.14 During the time allocated for member questions, the following provisions shall apply:

- All members' first questions, including supplementary questions, will be responded to and/or dealt with before consideration of any members' second questions;
- The order of members' first questions to be considered will be as follows: administration, largest opposition group, second largest opposition group, etc. Should time permit, once all first member questions submitted by political groups have been dealt with, first questions from independent councillors will be dealt with in the order they were received by the Proper Officer.
- The order of members' second questions to be considered will be as follows: administration, largest opposition group, second largest opposition group, etc. Should time permit, once all second member questions submitted by political groups have been dealt with, second questions from independent councillors will be dealt with in the order they were received by the Proper Officer.

14.15 At extraordinary council meetings, questions will only be asked or considered if they relate to the business of the meeting as specified in the summons

14.16 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.

## 15 Motions on Notice

15.1 No motions on notice will be admissible at the Annual General Meeting of the Council, any extraordinary meeting of the Council or the ordinary meeting of the Council that considers the budget pursuant to Rule 3.4

15.2 Except for motions which can be taken without notice under Rule 15.8 below, written notice of every motion shall be given by the member or members of the Council proposing the motion. In order to be considered by the Proper Officer, every motion 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;
- Seconded;
- 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. If the Council approves a motion which seeks to commit the Council to take action in respect of which only the Executive has power to make a decision, the matter will be referred to the Mayor and Cabinet for decision, which will be taken in accordance with this Constitution.

15.3 The Proper Officer may reject a Motion On Notice, if, in their opinion:

- vii) 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; or
- viii) It is defamatory, frivolous or offensive; or
- ix) It is substantially the same as a motion which has been put and answered at a Council meeting within the last three months; or
- x) It requires the disclosure of confidential or exempt information; or
- xi) It relates to the circumstances of an individual case; or

xii) It relates to any investigation by the Monitoring Officer or Standards Committee.

14.5 Any motion that complies with the provisions of Rules 15.1-15.3 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.

15.5 No more than one motion may be proposed by any political group or any independent councillor for each meeting;

15.6 The consideration of motions on notice shall not take longer than 30 minutes in total.

15.7 Motions will be taken in the following order: Administration; largest political group, seconded largest political group, third largest political group, etc. Should time permit, once all motions submitted by political groups have been dealt with, motions from independent councillors will be dealt with in the order they were received by the Proper Officer.

15.8 Those motions which may be moved without notice are:

- i. the appointment of a Speaker 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 continues 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.

15.9 Motion to rescind preceding resolution

- i. 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. 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. This Standing Order shall not apply when the Council is considering a recommendation of a Committee.

15.10 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 Speaker before the start of the meeting, it shall be considered as withdrawn and shall not be moved without fresh notice.

15.11 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.

15.12 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 Speaker may rule that the amendment is not put to the meeting.

15.13 After 5 p.m. on the working day before the Council meeting no further proposed amendments will be allowed, save that the Speaker may at their discretion allow amendments to correct errors or make minor or insubstantial changes.

## 16 Rules of Debate

16.1 A motion or amendment shall not be discussed unless it has been proposed and seconded.

16.2 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 The proposer of a motion has the right to nominate a seconder.

16.4 The seconder of a motion or amendment has the right to reserve their speech until a later time in the debate but must declare their 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 Those making speeches must direct their speech to the issue under discussion. No speech may exceed five minutes without the consent of the Speaker.

16.6 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 their first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- In the exercise of a right of reply;
- On a point of order;
- By way of personal explanation.

16.7 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 Speaker on the admissibility of an amendment is not open to challenge.

- 16.8 Motions will generally be debated one at a time, but the Speaker may rule that more than one motion may be debated (but not voted on) at the same time, if in their view it is likely to mean that Council business is conducted more efficiently.
- 16.9 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 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 The motion as amended shall take the place of the original motion and shall become the substantive motion.
- 16.12 No Member shall move more than one amendment to any motion.
- 16.13 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 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 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 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 Any reply shall be strictly confined to answering previous speakers and shall not introduce any new matter into the debate.
- 17.5 After the reply, the question shall be put without further debate.

17.6 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

18.1 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 Speaker that a Member leave the meeting;
- e. a motion under Section 100A of the Local Government Act 1972 as amended to exclude the public (disorderly conduct).

19 Closure Motions

19.1 A Member may move at the end of a speech of another Member:

- a. that the meeting proceeds to the next business;
- b. that the question be now put;
- c. that the debate be now adjourned; or
- d. that the Council do now adjourn.

19.2 Such motions shall be moved without discussion.

19.3 If the motion is seconded, the Speaker shall proceed as follows:

- (a) on a motion to proceed to next business:  
subject to paragraph (e) below, they shall first give the mover of the original motion a right to reply to the motion to proceed to next business. The Speaker 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 their 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, they shall first put to the vote the motion that the question be now put. If it is passed the Speaker shall then give the mover of the original motion their 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, they shall put the adjournment motion to the vote without giving the mover of the original motion their right of reply on that occasion. The mover shall however retain their 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. In the case of a motion to adjourn the meeting, the provisions of Rule 19 (3)(c) above will apply.
- (e) Speaker’s discretion not to close - If the Speaker is of the opinion that the matter before the meeting has not been sufficiently discussed, they shall refuse to accept any closure motion.

20 Point of order

20.1 A member can raise a point of order at any time. The Speaker will hear it 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 they consider it has been broken. The Speaker's ruling on this point is final.

## 21 Personal explanation

21.1 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 Speaker's ruling as to the admissibility of a personal explanation is final.

## 22 Voting

22.1 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 by-laws). 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 they voted in the first instance.

22.2 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 these circumstances as more specifically spelled out in Part IV of the Constitution.

22.3 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 The Speaker 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 Speaker 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 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 Speaker and, when so directed by the Speaker, the Proper Officer will call the name of every councillor who will record their votes by responding "For" or "Against" or "Abstain". The result of the voting shall be announced by the Speaker when all votes have been cast and will be recorded in the minutes.

22.6 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

22.7 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.

- 22.8 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.
- 22.9 Where the Council is appointing to more than one position (e.g. where the Council appoints two representatives to an outside body), and there are more nominees than positions to be filled, the procedure in 22.8 above 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 Speaker. 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 Speaker 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 Speaker shall sign the minutes.

23.4 Where in relation to any meeting the next meeting for the purpose of signing the minutes is an extraordinary meeting then the minutes will be considered at the next meeting which is not an extraordinary meeting.

## 24 Notice of Council meetings

24.1 Five clear days before any meeting of the Council the Proper Officer shall publish, at the offices of the Council, a public notice of the time and place of the intended meeting. Where the notice relates to a meeting of the Council called by members of the Council pursuant to Rule 4.3 above, the notice shall be signed by those members and shall specify the business proposed to be transacted and a summons shall be sent to the Mayor and each member of the Council in accordance with Rule 5 above.

24.2 If the Mayor or any member gives notice in writing to the Proper Officer that they wish summonses to attend meetings of the Council to be sent to him/her at an address other than their 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 below.

24.4 Additional rules relate to notice of private meetings of the Executive, a Committee of the Executive, area committees, joint committees and their sub committees where all members are executive members. These are set out in the Executive Procedure Rules.

## 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 Speaker 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

26.1 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 their 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 Rule 27.4. The provisions of the Openness of Local Government Bodies Regulations 2014 shall apply. They 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 the Access to information Rules.
- 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 Access to Information Rules.
- 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, detailed in the Access to Information 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 detailed in the Access to Information Rules.

## 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 in accordance with Rule 5 above.

## 29 Disturbance and Misconduct

- 29.1 If a member of the public interrupts the proceedings at any meeting of the Council, the Speaker shall warn him/her. If they continue with the interruption, then the Speaker shall order their removal from the Council Chamber. In the case of a general disturbance, the Speaker 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 Speaker may at their discretion, suspend the meeting of the Council for such period as they consider expedient, or adjourn the meeting to a later time or date.
- 29.3 If because of the nature of disturbance, the Speaker 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 Speaker 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 Speaker, behave irregularly, improperly or offensively, or wilfully obstruct the business of the Council. If the Speaker considers that a member of the Council has misconducted him/herself in such a way, then they shall say so to the Council. Then the Speaker 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 their misconduct after such a motion has been carried, the Speaker 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 Speaker may also suspend the meeting for such period as they thinks fit.
- 30 Vacancies etc not to invalidate proceedings
- 30.1 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
- 31.1 With the exception of those Rules listed in Rule 31.2 below, 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 Speaker will include references to the chairs of committees and sub-committees for that purpose.
- 31.2 The following Council Procedure Rules shall not apply to Council committees or sub-committees:
- Rule 4 - Extraordinary Meetings,
  - Rule 7 - Council Urgency Committee,
  - Rule 13 - Public Questions,
  - Rule 14 - Member Questions,



- Rule 3.2 – as far as it relates to Petitions and
- Rule 15 – as far as it relates to Motions on Notice

31.3 The Committee Procedure Rules shall apply to committee meetings.

## **Appendix 5**

### **Part 4 – Rules of Procedure Executive Procedure Rules**

## **EXECUTIVE PROCEDURE RULES**

### **1 Terms of reference**

- 1.1 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 Composition**

- 2.1 By law, the Executive consists of the Mayor and at least two but not more than nine councillors appointed to the Executive by the Mayor.

### **3 Who may make executive decisions?**

- 3.1 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

- 3.2 The law provides that executive functions may not be discharged by the Council.

### **4 A Mayoral Scheme of Delegation**

- 4.1 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 and wards of the councillors 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 councillors to whom such power has been delegated and details of any limitation on the delegated authority; 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

- (v) The nature and extent of any authority delegated to individual officers, including the details of the post 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 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**

- 5.1 If the Mayor delegates functions to the Executive, unless they decide 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.
- 5.2 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.
- 5.3 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.
- 5.4 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**

- 6.1 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.
- 6.2 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, they 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.
- 6.3 The Mayoral Scheme of Delegation may also be amended by the Monitoring Officer, where in their professional opinion, in consultation with the Chief Executive, the Constitution requires amendment without delay. In such cases, the provisions of Article 22.2 shall apply.

## **7 Executive spokespersons**

- 7.1 If the Mayor decides not to delegate any decision-making powers to any individual member of the Executive, they 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.
- 7.2 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.
- 7.3 Each spokesperson will ensure that reports on matters within their portfolio are considered by the Executive.
- 7.4 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 Executive Procedure Rules, and then any such powers will be subject to any limitation placed on them by the Mayor.

## **8 Executive Assistants**

- 8.1 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 Speaker
  - 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
- 8.2 The Mayor will keep under review the role and number of Assistants to the Executive should they wish to appoint them.
- 8.3 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**

- 9.1 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.

- 9.2 If a decision falls to be made by the Mayor alone or an individual member of the Executive and that person has an interest which would prevent participation in consideration of the matter under the Member Code of Conduct, then they 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 they also have such an interest in it.

## **10 Executive meetings – where and when?**

- 10.1 The Executive will normally 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**

- 11.1 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 decision may be made at the meeting.
- 11.2 Subject to the exemptions relating to confidential and exempt information, the Executive may only meet in private if a lawful power has been used to exclude a member or members of the public, or where admission of the public would be likely to result in a breach of a legal obligation to a third party about the keeping of confidential information.
- 11.3 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 Part IV - Access to Information Rules.

## **12 Quorum**

- 12.1 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. However, 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?**

- 13.1 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. 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.
- 13.2 All decisions made by members must be recorded by the Proper Officer and the decision will not be deemed to be made until such a record is made and publicised in accordance with Rule 18 below.

13.3 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?**

14.1 The Access to Information Rules set out in Part IV of the Constitution apply to meetings of the Executive.

14.2 Any member who has been appointed by the Mayor to the Executive for part of a year may nonetheless attend Executive meetings during the time when they do not so serve. At the invitation of the Mayor such member may make a presentation to the Executive and/or speak on any matter being considered by it. However, no member may vote on any matter being considered by the Executive except during the period for which they have been appointed by the Mayor to serve on the Executive.

14.3 Any member appointed to the Executive by the Mayor for part of any year may not thereafter during that year sit on the Council's Overview & Scrutiny Committee or any of its Select Committees.

#### **15 What business is to be conducted at Executive meetings?**

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

- consideration of the minutes of the last meeting;
- declaration of interests if any;
- matters referred to the Executive (whether by the Overview and Scrutiny Committee, a select committee, a joint select committee, any task and finish group 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;
- consideration of reports from Overview and Scrutiny Committee or select committees;
- consideration of reports from the Positive Ageing Council.
- 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.

#### **16 A programme of business**

16.1 As soon as practical in each year the Executive will seek to establish a programme of business for the remainder of the year to the extent that it is possible to do so.

16.2 Items for consideration by the Executive may be rescheduled as necessary during the course of the year.

#### **17 Decisions at meetings of the Executive**

- 17.1 Where the Mayor has delegated decision making to the Executive acting collectively, or to a committee of the Executive, decisions will be taken if agreed by a majority of those present and voting. The meeting will be chaired by the Mayor if present, or by the Deputy Mayor if not. If neither is present then the meeting will be chaired by the member nominated by the Mayor to do so, or in the absence of such a nomination, by the member elected by the meeting to do so.
- 17.2 If the Mayor has previously indicated to the Proper Officer that the Executive acting collectively may not make a decision under delegated authority, the Proper Officer will give notice to that effect to all members of the Executive, and in such cases the Mayor will make the decision himself usually at a meeting convened as if the decision was to be taken by the Executive collectively. If it is not practical for such a meeting to be convened, the Mayor may nonetheless make the decision himself on the basis of a written report containing service, corporate, legal and financial implications at a time and place at which notice has been given in accordance with the Access to Information Rules and at which the Head of Paid Service, Chief Finance Officer and/or the Monitoring Officer and/or their nominee are present.

## **18. Publication of decisions**

- 18.1 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 set out in a central record by the Proper Officer which will be available to all members of the Council and the public.
- 18.2 The period during which any decision may be 'called in' under these Procedure Rules will only begin to run when notice of a decision has been published in accordance with this rule.

## **19 Consultation**

- 19.1 All reports to the Executive on proposals relating to the budget or policy framework will contain details of any 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.

## **20 Who can put items on the agenda for a meeting of the Executive?**

- 20.1 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 requested by the Overview and Scrutiny Committee or by the Council or any relevant sub-committee in response to a referral made under this Constitution. 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 and/or the Chief Finance Officer may include an item for consideration by the Executive.
- (f) 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.
- (g) The Young Mayor may make referrals to the Mayor and Cabinet, subject to a maximum of one in any twelve-month period, unless the Mayor agrees to the contrary.

## **21 Part year membership of the Executive**

21.1 The Mayor may provide in his scheme of delegation that a councillor should serve on the Executive for part of a year only, with their place being taken for the remainder of that year by a different councillor. In those circumstances, both members will be entitled to attend meetings of the Executive, but only the councillor currently serving as a member of the Executive will be able to vote on any matter under consideration. The member not currently serving on the Executive may contribute to debate unless the Mayor states to the contrary.

## **22. No co-optees or substitutes**

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

## **23 Attendance of Executive members at overview and scrutiny meetings**

23.1 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 select committee. If required they will attend to give account for Executive action and/or performance as set out in the Overview & Scrutiny Procedure Rules (OSC power to require attendance). Similar provisions apply to individual ward members to whom the Mayor has delegated decision making powers within their ward.

## **Appendix 6**

### **Part 4 – Rules of Procedure Committee Procedure Rules**

## **Committee Procedure Rules**

### **1. Political balance**

- 1.1 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**

- 2.1 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**

- 3.1 Every committee may appoint a sub-committee for any purpose within their terms of reference. Special provisions relate to the Health and Wellbeing Board.

### **4. Chairing Committees**

- 4.1 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 Board.

### **5. Membership of sub committees**

- 5.1 At least a majority of every sub-committee must be elected members of the Council. Special provisions relate to Health and Wellbeing Boards detailed in Article 9.4 of this Constitution.

### **6. Discontinuance of sub committees**

- 6.1 Unless previously discontinued, every sub-committee will cease to function at the same time as the committee appointing it.

### **7. Quorum**

- 7.1 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 the Health and Wellbeing Board.
- 7.2 Notwithstanding paragraph 7.1 above, in no case shall the quorum for any committee (or a sub-committee) be less than 3.
- 7.3 If there is no quorum after 15 minutes from the time shown in the summons for the start of the meeting, then the meeting will not take place.

7.4 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**

8.1 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 they are not a member may do so. Save to the extent expressly provided to the contrary in the Constitution, they shall not take part in the proceedings without the consent of the committee or sub-committee. They may not vote.

## **9. Election of Chair and Vice Chair**

9.1 The Chairs and Vice Chairs of all committees and sub-committees shall be appointed by the Annual General Meeting of the Council.

## **10. Absence of Chair**

10.1 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**

11.1 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 or an Appointments Committee.

## **12. Limitation on membership of committees**

12.1 Members of the Executive may not also be members of the Overview and Scrutiny Committee or select committees. 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**

13.1 The Chair of a committee shall:

- preside at every meeting at which they are present;
- be an ex officio member of every subcommittee appointed by the committee of which they are chair;
- (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;
- be entitled to vote in the first instance and in the case of equality of votes, to give a casting vote, whether they voted in the first instance or not;
- if present, sign the minutes;
- if present, submit and move any report of the committee to the Council.

13.1 The Vice Chair of the committee shall:

- be an ex officio member of all sub-committees appointed by the committee of which they are the Vice Chair;
- 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**

14.1 The Chair may call a special meeting of the committee they chair at any time.

14.2 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.

14.3 The summons to a special meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

14.4 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**

15.1 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.

15.2 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.

15.3 Each committee must be quorate for business to be conducted at the joint meeting.

15.4 Any report of a joint meeting of committees to the Council shall be submitted by the Chair elected for the meeting.

15.5 The minutes of a joint meeting shall be referred to the next meeting of each of the participating committees for approval.

#### **16. Resignations**

16.1 Any member may resign from a committee or subcommittee by giving written notice to the Proper Officer. The resignation takes effect immediately on receipt.

#### **17. The Proper Officer**

17.1 References in this Constitution to the Proper Officer shall be to the Monitoring Officer or such person as they shall nominate in writing to all members of the Council to be the Proper Officer for any purpose.

## **18. Application of Council Procedure Rules**

18.1 With the exception of those Rules listed in Rule 18.2 below, 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 Speaker will include references to the chairs of committees and sub-committees for that purpose.

18.2 The following Council Procedure Rules shall not apply to Council committees or sub-committees:

- Rule 4 - Extraordinary Meetings,
- Rule 7 - Council Urgency Committee,
- Rule 13 - Public Questions,
- Rule 14 - Member Questions,
- Rule 3.2 – as far as it relates to Petitions and
- Rule 15 – as far as it relates to Motions on Notice

## **Appendix 7**

### **Part 4 – Rules of Procedure Access to Information Rules**

## ACCESS TO INFORMATION PROCEDURE RULES

### 1. SCOPE

- 1.1 These Rules apply to all meetings of the Council including meetings of the Executive, any committees, sub-committees, regulatory committees, panels and commissions which the Council may establish (together called “meetings”).
- 1.2 In these Rules the term “clear working day” excludes the date on which the notice of a meeting is published and the date on which the meeting is to be held and also excludes any weekends and public holidays.
- 1.3 These Rules do not detract from any more specific right to information contained elsewhere in this constitution or the law.
- 1.4 In these Rules “**the public**” includes members of the press.

### 2. RIGHT OF PUBLIC TO ATTEND MEETINGS

- 2.1 Any member of the public may attend all meetings subject only to the exceptions in these Rules.

### 3. NOTICE OF MEETINGS

- 3.1 The Council will give at least five clear working days’ notice of any meeting by posting details of the meeting at Town Hall, Catford London SE6 4RU (the “**designated office**”) and where possible on its website.
- 3.2 If a meeting is called at shorter notice than five clear working days, notice is to be given by the Council in the same manner as set out above at the time the meeting is called.
- 3.3 Where a meeting of the Executive is to be held in private, at least 28 clear days before the private meeting, the Council will make available at the designated office a notice of intention to hold the meeting in private and where possible publish that notice on its website. That notice will contain a statement of why the meeting is to be held in private.
- 3.4 At least five clear working days before a private meeting of the Executive the Council will make available at the designated office and where possible publish on its 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.
- 3.5 Where the date by which a meeting must be held makes compliance with Rules 3.3 and 3.4 impracticable, the meeting may only be held in private where the decision making body has obtained agreement that the meeting is urgent and cannot reasonably be deferred from:
  - (a) the Chair of the Overview and Scrutiny Committee; or,
  - (b) if there is no such person or if the Chair of the Overview and Scrutiny Committee is unable to act, the Speaker; or,



- (c) where there is no Chair of the Overview and Scrutiny Committee or Speaker, the Deputy Speaker.

3.6 As soon as reasonably practicable after the decision-making body has obtained agreement under Rule 3.5 to hold a private meeting the Monitoring Officer must make available at the designated office and where possible on the Council's website a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

3.7 The Executive or one of its committees may meet in private if it meets with officers for the purposes only of briefing.

#### **4. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

4.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and where possible on the Council's website at least five clear days before the meeting except:

- (a) Where the meeting is called at shorter notice, copies of the agenda and reports shall be made available from the time the meeting is called; and
- (b) Where an item is added to the agenda later, copies of the item, the revised agenda and copies of any report relating to that item will be open to inspection from the time that the item was added to the agenda.

#### **5. ACCESS TO MINUTES ETC. AFTER THE MEETING**

5.1 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.

#### **6. BACKGROUND PAPERS**

6.1 The author will set out in every report a list of documents ("background papers") relating to the subject matter of the report which in the opinion of author and the Monitoring Officer:

- (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 preparing the report.

This requirement does not apply to published works or those which disclose confidential or exempt information.

- 6.2 Any background papers will be retained by the Council and made available for public inspection for a period of four years after the date of the meeting at which a report referring to them was considered.

## **7. SUPPLY OF COPIES**

- 7.1 The Council will supply copies of:
- a. any agenda and reports which are open to public inspection;
  - b. any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - c. if the Monitoring Officer thinks fit, copies of any other documents supplied to councillors and/or the Mayor in connection with an item,

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

## **8. SUMMARY OF PUBLIC RIGHTS**

- 8.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and made available to the public at the designated office.
- 8.2 Where documents are open to public inspection they will be available at all reasonable office hours at the designated office.
- 8.3 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.

## **9. EXCLUSION OF THE PUBLIC FROM MEETINGS**

### **a. Confidential information – requirement to exclude public**

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

### **b. Exempt information – discretion to exclude public**

The public may be excluded from all or parts of a meeting whenever it is likely, in view of the nature of the nature of the business to be transacted, or the nature of the proceedings, that exempt information would be disclosed and public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **c. Advice of a political advisor or assistant**

Nothing in these Rules shall require the Council to disclose to the public or make available for public inspection any information which is likely to contain the advice of a political advisor or assistant.

**d. Excluding the public to prevent disorder**

Under Regulation 4(2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public may be excluded from a meeting in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

**e. Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

**f. Meaning of exempt information**

Exempt information means information falling within the following seven categories:

	<b>Category</b>	<b>Condition</b>
1.	Information relating to an individual.	Information falling within this paragraph is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2.	Information which is likely to reveal the identity of an individual.	Information falling within this paragraph is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding the information).	Information falling within this paragraph is not exempt if it must be registered under various statutes such as the Companies Acts 1985 and 2006, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Co-operative and Community Benefit Societies Act 2014, or the Charities Acts 1993 and 2011.
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a	Information falling within this paragraph is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption

	Minister of the Crown and employees of, or office holders under, the authority.	outweighs the public interest in disclosing the information.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information falling within this paragraph is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
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.	Information falling within this paragraph is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7.	Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information falling within this paragraph is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information falling within 1-7 above is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

10.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items, during which, in accordance with Rule 9 (Exclusion of the public from meetings) the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **11. APPLICATION OF RULES TO THE EXECUTIVE**

11.1 In addition to those Rules set out above, the following Rules apply to meetings of the Executive and its committees.

## **12. PROCEDURE BEFORE TAKING KEY DECISIONS**

12.1 Key decisions are defined at Article 16.

12.2 Subject to Rule 14 (Urgency – General Exemption) and Rule 15 (Urgency -Special urgency), a key decision shall not be taken unless:

- (a) the matter has been included in the Council's forward plan, which must be available for public inspection at the designated office and on the Council's website for 28 clear days before a key decision is made; and
- (b) where the decision is to be made at a meeting of the Executive or its committees, notice has been given in accordance with Rule 3 (Notice of meetings).

### **13. THE FORWARD PLAN**

13.1 Each notice published in the forward plan under Rule 12 (Procedure before taking key decisions) must include:

- (a) The matter in respect of which the decision is to be made;
- (b) The date on which, or the period within which, the decision is to be made;
- (c) Where the decision maker is an individual, their name and title, if any;
- (d) Where the decision maker is a decision-making body, its name and details of its membership;
- (e) Where the decision relates to confidential or exempt information, as defined above, a statement that the decision will be made in private;
- (f) A list of the documents submitted to the decision maker for consideration in respect of their decision;
- (g) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (h) That other documents relevant to those matters may be submitted to the decision maker;
- (i) The procedure for requesting details of those documents (if any) as they become available;
- (j) A unique reference number;
- (k) Details of the wards affected by the decision.

13.2 Where, in relation to any matter:

- (a) The public may be excluded from the meeting at which the matter is to be discussed; or
- (b) Documents relating to the decision need not be disclosed to the public,

the forward plan must contain particulars of the matter and a statement of the reasons for the intended non-disclosure but may not contain any confidential or exempt information or particulars of the advice of a political adviser or assistant.

13.3 Any outstanding matters from the previous forward plan will be included in the latest forward plan.

13.4 The most recent forward plan shall supersede all previous forward plans.

### **14. URGENCY - GENERAL EXCEPTION**

14.1 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 15 (Urgency - special urgency) the decision may still be taken if:

- (a) the Monitoring Officer has informed the Chair of the Overview and Scrutiny Committee or, if there is no such person, each member of the Overview and Scrutiny Committee, by notice in writing of the matter in respect of which the decision is to be made; and

- (b) the Monitoring Officer has made copies of that notice available to the public at the designated office and where possible published it on the Council's website; and
- (c) at least 5 clear days have elapsed since the Monitoring Officer complied with (a) and (b) above.

14.2 As soon as reasonably practicable after the Monitoring Officer has complied with this Rule they must publish at the designated office and where possible on the Council's website a notice setting out the reasons why it was not practicable to comply with the requirement in Rule 12 (Procedure before taking key decisions).

## **15. URGENCY - SPECIAL URGENCY**

15.1 If by virtue of the date by which a key decision must be made Rule 14 (Urgency – General Exemption) above cannot be followed, then the decision may only be taken if the Chair of the Overview and Scrutiny Committee agrees that the taking of the decision is urgent and cannot reasonably be deferred. If there is no Chair of the Overview and Scrutiny Committee, or if there is but they are unable to act, then the agreement of the Speaker, or if there is neither a Chair of Overview and Scrutiny Committee nor Council, the Deputy Speaker may agree.

15.2 If agreement is given under Rule 15(a) (Urgency – Special Urgency), the Monitoring Officer will make available at the designated office and where possible publish on the Council's website a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.

15.3 The Mayor will submit a quarterly report to Council on the executive decision taken under this Rule in the preceding three months. This report will contain the number of decisions so taken and a summary of the matters in respect of which each decision was made.

## **16. RIGHTS OF OVERVIEW AND SCRUTINY IN RESPECT OF KEY DECISIONS**

16.1 If the Overview and Scrutiny Committee thinks that a key decision has been made which was not included in the key decision plan or properly decided in accordance with Rule 14 (Urgency – General Exception) or 15 (Urgency – Special Urgency), then the Overview and Scrutiny Committee may require the Executive to submit a report to Council within such reasonable time as the Overview and Scrutiny Committee specifies.

16.2 Any report prepared by the Executive under these provisions shall set out the particulars of the decision, the reasons for it, 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.

16.3 The report prepared by the Executive under these provisions shall be submitted to the next ordinary meeting of Council. However, if the next meeting of Council is within 10 working days of receipt of the written notice or the resolution of the Overview and Scrutiny Committee, then the report may be submitted to the next ordinary Council meeting after that.

## **17. RECORD OF DECISIONS - EXECUTIVE DECISIONS MADE AT MEETINGS**

- 17.1 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 Monitoring Officer or their nominee is present.
- 17.2 As soon as reasonably practicable after any meeting of the Executive or any of its committees, the Monitoring Officer (or their nominee who was present at the meeting) will produce a written statement of every decision taken at that meeting including:
- a record of the decision;
  - a record of the date on which the decision was made;
  - a record of the reasons for the decision;
  - details of any alternative options considered and rejected at the meeting;
  - a record of any conflict of interest declared in relation to the matter by any member of the decision-making body; and
  - any dispensation relating to any declared conflict of interest.

## **18. RECORD OF DECISIONS - EXECUTIVE DECISIONS MADE BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

- 18.1 All decisions taken individually by the Mayor or by individual members of the Executive must be based on written reports setting out key legal, financial, service and corporate implications.
- 18.2 When an officer prepares a report which is to be given to the Mayor or an individual member for decision, that officer must first give a copy of the report to the Monitoring Officer.
- 18.3 The Monitoring Officer will submit the report to the individual decision maker and serve a copy on every member of the Overview and Scrutiny Committee, the Chief Executive and the Chief Finance Officer.
- 18.4 Individual decisions by the Mayor or by individual members of the Executive may only be made in the presence of the Chief Executive, Chief Finance Officer or the Monitoring Officer or their nominee (unless they waive that requirement) and the officer whose responsibility it is to record the decision.
- 18.5 As soon as reasonably practicable after the Mayor or an individual member of the Executive has made an executive decision, but in any event within 2 working days of the decision, the Monitoring Officer will produce a written statement of the decision including:
- a record of the decision;
  - a record of the date the decision 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 the decision was made;
  - 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.

## **19. RECORD OF DECISIONS - EXECUTIVE DECISIONS BY AN OFFICER**

- 19.1 The Mayor, the Executive or its committees 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 setting out key legal, financial, service and corporate implications.
- 19.2 The person who supplies a copy of the report to the officer making the decision, must first supply a copy to the Monitoring Officer.
- 19.3 The decision-making officer must inform the Monitoring Officer immediately any decision has been taken and provide to them a written statement of the decision for publication containing the following:
- a record of the decision
  - a record of the date the decision was 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

## **20. OVERVIEW AND SCRUTINY COMMITTEE – ACCESS TO DOCUMENTS AFTER A DECISION HAS BEEN MADE**

- 20.1 Subject to Rule 20.2, any member of the Overview and Scrutiny Committee and of its sub-committees will be entitled to copies of any document (within 10 clear days of a request being made) which:
- (a) is in the possession or control of the Mayor, the executive or any of its committees; and
  - (b) 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 an individual member of the Executive; or
    - any key decision that has been taken by an individual officer in accordance with executive arrangements.
- 20.2 Overview and Scrutiny Committee members shall not be entitled to:
- (a) Any document that is in draft form;
  - (b) Any document or part of a document that contains exempt or confidential information unless:
    - it is relevant to an action or decision that they are scrutinising or reviewing, or that they intend to review or scrutinise;
    - or is contained in any programme of work of an Overview and Scrutiny Committee or sub-committee;
  - (c) Any document or part of a document that contains the advice of a political adviser or assistant.

## **21. ADDITIONAL RIGHTS OF ACCESS FOR ALL MEMBERS**



- 21.1 All members are entitled to inspect any document which is in the possession of or under the control of the Mayor, the Executive or any of its committees and which contains material relating to any business to be transacted at a public meeting 5 clear days in advance of the meeting unless the meeting is called at shorter notice in which case the document must be available for inspection when the meeting is called. When an item is added to an agenda at shorter notice, the document must be available for inspection when the item is added to the agenda.
- 21.2 All members are entitled to inspect any document which is in the possession or under the control of the Mayor or the Executive and contains material relating to any business transacted at a private meeting of the Executive, any individual Executive member decision, or an officer Executive decision immediately or within 24 hours after the relevant decision has been made unless:
- (a) It contains exempt information falling within categories 1, 2, or 3 (to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract) and 4, 5 and 7 of the Table in Rule 9;
  - (b) It contains the advice of a political advisor or assistant.

## **Appendix 8**

### **Part 4 – Rules of Procedure Budget & Policy Framework**

## **BUDGET AND POLICY FRAMEWORK RULES**

### **1. THE FRAMEWORK FOR EXECUTIVE DECISIONS**

- 1.1 The Council is responsible for the adoption of its budget and policy framework. Once a budget or a policy framework is in place, it is the responsibility of the Executive and officers to implement it.

### **2. PROCESS FOR DEVELOPING THE FRAMEWORK**

The process by which the budget and plans and strategies within the policy framework are developed shall be as follows:

- 2.1. Before a plan, strategy or budget needs to be adopted, the Executive will publish initial proposals having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration.
- 2.2. Once drawn up, the Executive will provide a copy of the initial proposals to the proper officer who will serve copies of it on the Chair of the Overview and Scrutiny Committee and the Chair of any relevant Overview and Scrutiny select committee.
- 2.3. The Overview and Scrutiny Committee and any relevant Overview and Scrutiny select committee should be allowed at least 10 clear days to respond to the initial proposals unless the Executive considers that there are special reasons that make this timetable inappropriate. If this is the case, then the Executive will inform the Overview and Scrutiny Committee and any relevant Overview and Scrutiny select committee of the time for response when the initial proposals are referred to it.
- 2.4. At the end of the period referred to in Rule 2.3, having taken into account the views of the Overview and Scrutiny Committee and any relevant Overview and Scrutiny select committee, the Executive will prepare its recommended proposals for the Council to consider. The Executive will also report to the Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee and any relevant Overview and Scrutiny select committee, or its reasons for not doing so.
- 2.5. The Council will consider the proposals of the Executive and may resolve by a simple majority to adopt them, refer them back to the Executive for further consideration or substitute its own proposals in their place.
- 2.6. If Council accepts the Executive's proposals without amendment, then the decision will take immediate effect.
- 2.7. If Council wishes to amend the Executive's proposals, or substitute its own proposals in their place, it must inform the Mayor of their objections to the proposals and give instructions requiring the Executive to reconsider the proposals. The instruction must give a period of at least 10 clear days beginning with the day after which the Mayor receives the instructions to reconsider, within which time the Executive may:
  - i. submit a revision of the original Executive proposal with reasons for any amendments that have been made; or

- ii. resubmit the unamended original Executive proposal to the Council and inform it of any disagreement that the Executive has with any of the Council's objections and the reasons for that disagreement.
- 2.8. When the period referred to in Rule 2.77 has expired the proposals (whether amended or not) will be referred back to Council. In considering the proposals referred back to it by the Executive, the Council will take account of the following:
- i. any amendments made to the proposals by the Executive and the Executive's reasons for those amendments; and
  - ii. any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for that disagreement.
- 2.9. Council may either:
- i. Approve either the original Executive proposal or any revision to that proposal put forward by the Executive by way of a simple majority of those present and voting; or
  - ii. Approve a different decision which does not accord with either the original Executive proposal or any revision to that proposal put forward by the Executive by way of a two-thirds majority of those members of the Council present and voting.
- 2.10. Subject to Rule 2.144, where before 8th February in any financial year, the Executive submits to 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 Rule 2.111 below.

- 2.11. Before Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Rule 2.100, 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 the Mayor instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- 2.12. Where Council requires reconsideration in accordance with Rule 2.111 above, it must specify a period of at least 10 working days beginning on the day after the date on which the requirement is received 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 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 Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement
- 2.13. Subject to Rule 2.144 below, when the period set out in Rule 2.111 has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in Rule 2.100, 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 and the Executive's reasons for those amendments; and
  - ii. any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for that disagreement.
- 2.14. If 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.
- 2.15. The provisions for approval of the decisions in these Budget Policy and Procedure Rules apply to decisions whether or not they would result in a Council Tax increase which would be deemed excessive using principles set by the Secretary of State under Part 5 Chapter 1 Localism Act 2011 and relevant regulations.
- 2.16. Where Council seeks to set a Council Tax which would be deemed excessive by reference to Part 5 of Chapter 1 Localism Act 2011, it must hold a referendum in accordance with relevant regulations and propose additional measures that would be effective in the event that the binding referendum does not approve the imposition of the "excessive" Council Tax increase.
- 2.17. **Recorded vote on budget decisions.** Immediately after any vote related to the making of the calculation or issuing of the precept 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, against the decision, or who abstained from voting. 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 Local 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.
- 2.18. **Opposition budget proposals.** Any opposition group may submit an alternative budget proposal for consideration by Council. This should be provided in writing to the Monitoring Officer by 5pm one working day before the meeting. Amendments may only be considered after this deadline with the agreement of the Monitoring Officer and the Chief Finance Officer. In developing alternative proposals an opposition group must seek advice from the Chief Finance Officer. This is so that the Chief Finance Officer can fulfil their statutory duty to comment on the robustness of the estimates and the adequacy of reserves contained within the

alternative proposal (section 25 Local Government Act 2003). When considering alternative budgets, Council shall consider each alternative individually in the order in which they were received by the Monitoring Officer. If an alternative budget is carried by way of simple majority of those present and voting, then this amounts to an amendment to the Executive's proposals and the steps specified in Rules 2.7 to 2.9 will apply.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 3.1. Subject to Rule 5 (Virement), the Mayor, Executive, a committee of the Executive, officers to whom powers have been delegated and those acting under joint arrangements that may be in place (each a "**decision maker**") may only make decisions which are in line with the budget and policy framework.
- 3.2. 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 Council then subject to 9 below, that decision can only be taken by the Council.
- 3.3. 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.
- 3.4. If a decision maker wishes to make a decision which may be contrary to the policy framework or contrary to or not wholly consistent with the budget, they must first take the advice of the Monitoring Officer and/or the Chief Finance Officer. 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 4 below apply.

### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 4.1. Executive decisions which are contrary to the policy framework or contrary to or not wholly consistent with the budget may only be taken if the decision is a matter of urgency and
  - i. it is not practical to convene a quorate meeting of the Council in sufficient time to make the decision; and
  - ii. the Chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency
- 4.2. The reasons why it is not practical to convene a quorate meeting of the Council, and the Chair of the Overview and Scrutiny Committee's consent must be noted on the record of the decision. In the absence of the Chair of the Overview and Scrutiny Committee, the consent of the Speaker of the Council will suffice, and in the absence of both, the Deputy Speaker.
- 4.3. Following the decision, the decision maker must provide a report to the next Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **5. VIREMENT**

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

## **6. IN YEAR CHANGES TO THE BUDGET OR POLICY FRAMEWORK**

- 6.1 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 proposals.
- 6.2 No changes to the budget or policy framework may be made by any decision maker other than:
- i. Changes necessary to ensure compliance with the law, ministerial direction, or government guidance; or
  - ii. Where Council has agreed in advance the circumstances in which changes can be made.

## **7. CALL IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 7.1. Where an Overview and Scrutiny Committee considers that an Executive decision is, or if made would 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.
- 7.2. In respect of functions which are the Mayor's or 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 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 Overview and Scrutiny Committee if the Monitoring Officer/Chief Finance Officer decide that it was not.
- 7.3. 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 Overview and Scrutiny Committee 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 21 days of the request by the Overview and Scrutiny Committee. 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.
- 7.4. The Council may then either:
- i. 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

- ii. amend the Council's budget, Financial Procedure Rules or the policy concerned to encompass the decision or proposal and agree to the decision with immediate effect. In this case no further action is required, save that the decision of the Council be minuted and circulated in the normal way; or
- iii. 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.

- 7.5. If Council does not meet within the timescale set out in Rule 7.4, the decision will become effective on the date of the expiry of the period in which the meeting of Council should have been held provided that the Monitoring Officer and/or the Chief Finance Officer are satisfied that the decision is within the budget or policy framework or falls within Rule 6. In such circumstances the decision of the Monitoring Officer and/or the Chief Finance Officer is final.