



## **Governance Committee**

### **Constitutional Update**

**Date:** 13<sup>th</sup> March 2025

**Class:** Part 1

**Wards affected:** N/A

**Contributors:** Jeremy Chambers  
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## Recommendations

Governance Committee is recommended to:

1. To note and consider the feedback from Workshop 2;
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 - 8 below;
3. With regard to the Council's Scrutiny Procedure Rules, to give effect to the decision of Governance Committee on 4<sup>th</sup> March 2025, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7<sup>th</sup> May 2025:
  - The deletion of references to Local Assemblies;
  - The provisions confirming Cabinet Advisors cannot sit on Overview & Scrutiny Committee but can sit on select committees in limited circumstances as detailed at paragraph 4.2 of this report;
  - The provisions relating to the election of Chair & Vice Chair by the AGM of the Council as detailed in paragraph 4.2 of this report;
  - The provisions relating to call-in detailed in paragraph 4.2 of this report; and
  - The full Scrutiny Procedure Rules attached to this report as Appendix 1.
4. With regard to the Scheme of Delegation, to agree the following principles, whilst noting that the detailed wording of the Scheme of Delegation will be brought to a future meeting of the Governance Committee in advance of the Annual General Meeting of the Council on 7<sup>th</sup> May 2025:
  - That the Scheme of Delegation is structured as a single Scheme of Delegation covering both Executive and Non-Executive delegations, which is simplified, easier to navigate and removes repetitions;
  - That the Scheme of Delegation is structured to allow officers to make decisions relating to any Executive and Non-Executive Council function falling within their area, with clearly stated 'reserved matters' and subject to compliance with other elements of the Constitution, e.g., the Financial Procedure Rules, Contract Procedure Rules and the Protocol for Officers Making Decisions;
  - That the Scheme of Delegation removes the current requirement for a Mayor & Cabinet decision to make a grant funding application and includes a provision that where officers are considering making an application for grant funding that they first consult with the relevant Cabinet Member and/or the Mayor.
5. With regard to the Members' Code of Conduct, to:
  - Note that the Council's Standards Committee will be formally considering the Members Code of Conduct at its meeting on 9<sup>th</sup> April 2025;
  - Endorse the adoption of the Local Government Association updated Model Code of Conduct and guidance subject to any minor amendments the Standards Committee deems necessary following its recent workshop.
6. With regard to the Protocol for Member/Officer Relations, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7<sup>th</sup> May 2025:
  - That example scenarios be included in the Protocol as detailed in paragraph 7.7 of this report;
  - That provisions relating to the relationship with committee chairs and the scrutiny function be included in the Protocol as detailed in paragraph 7.7 of this report;
  - That the Protocol contain provisions on what to do when things go wrong or there are potential breaches of the Protocol as detailed in paragraph 7.7 of this report.
  - The full Protocol for Member/Officer Relations, attached to this report as Appendix 2.
7. With regard to the Protocol of Member use of IT, the Governance Committee recommend to the Annual General Meeting of the Council on 7<sup>th</sup> May 2025 that officers carry out a review of the current arrangements and policies and have revised arrangements and policies in place in advance of the new member induction as a result of the May 2026 local elections.
8. With regard to the Employee Code of Conduct, to agree and endorse the Employee Code of Conduct attached to this report as Appendix 3, for approval and adoption at the Annual General Meeting of the Council on 7<sup>th</sup> May 2025.

## 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. The matters covered in Workshop 1 were considered by the Governance Committee on 4<sup>th</sup> March 2025. Workshop 2 covered the following elements of the Constitution:

- The Scheme of Delegation;
- Members' Code of Conduct,

- Protocol for Member/Officer Relations,
  - Protocol on Member use of IT,
  - Employee Code of Conduct.
- 2.4. This report provides feedback from Workshop 2 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 2 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 2 are detailed in sections 5 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. Scrutiny Procedure Rules**

- 4.1. At the Governance Committee on 4<sup>th</sup> March 2025, the Committee resolved as follows:

*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.*

4.2. A revised set of Scrutiny Procedure Rules have been prepared to take account of the above decision, which are attached to this report at Appendix 1. Aside from tidying up and deleting the references to Local Assemblies, the specific changes are as follows:

### 3.2 Cabinet Advisors

*Cabinet Advisors cannot sit on the Overview & Scrutiny Committee and may only sit on a select committee where the portfolio covered by their Cabinet Advisor role does not directly conflict with the terms of reference of the select committee.*

### 8.1 Chairs and Vice Chairs

*The Chairs and Vice Chairs of all committees and sub-committees are appointed by the Annual General Meeting of the Council. At the first meeting in the municipal year, the Overview and Scrutiny Committee will acknowledge the appointments made by Council.*

## 18. Call-In

18.1 *The following Executive decisions may be subject to call-in:*

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

18.2 *The following Executive decisions shall not be subject to call-in:*

- *decisions to note reports.*
- *decisions to recommend matters for onward consideration and decision by Council.*
- *decisions taken by officers relating to the provision of services to individual service users, (for example when a service user goes into residential care or child into a residential special school)*

18.3 *When an Executive decision is made the decision will be published by the Proper Officer on the Council's website, including where possible by*

*electronic means, and will in any event be available at the Council's main offices, within two days of being made. Copies of the decisions will be sent to all members of the Council's Overview & Scrutiny Committee within the same timescale by the Proper Officer.*

*18.4 The notice will bear the date on which it is published and will specify that the decision will come into force on the expiry of seven working days after the publication of the decision unless the decision is called-in in accordance with the provisions of paragraph 18.*

*18.5 If the decision has been taken in accordance with paragraph 19: Call-in and Urgency below, it will be effective on publication of notice that it has been made and cannot be called-in.*

*18.6 In order for a call-in to be valid, it must satisfy the following provisions:*

- Be received by the Proper Officer before the expiry of seven working days after the publication of the decision.*
- Identify the Executive decision to which it refers.*
- Include specific and reasonable reasons for call-in.*
  - Requests for call-in should include details of why the decision is defective and where appropriate suggest an alternative course of action.*
  - Requests for call-in should not be made for party political purposes, for trivial reasons or where a decision is not liked.*
- Be made by at least seven (7) councillors that are not members of the Executive or Cabinet Advisors.*

*18.7 The Proper Officer will consider any application for call-in to determine its validity in accordance with paragraph 18.6. If the application for call-in is accepted the provisions of paragraphs 18.9 to 18.17 shall apply.*

*18.8 Should the Proper Officer be minded to reject the application for call-in, they must first consult with the chair of Overview & Scrutiny Committee before reaching a final decision. The reasons for rejecting any application for call-in will be communicated in writing to the lead councillor on the application.*

*18.9 Where an application for call-in has been accepted as valid by the Proper Officer, they shall convene a meeting of the Overview and Scrutiny Committee as soon as reasonably practicable to consider the call-in. Any Executive decision subject to a valid call-in shall not be implemented pending the conclusion of the call-in procedure.*

*18.10 When the Overview & Scrutiny Committee considers the Executive decision it may either:*

- Take no action. The decision becomes effective immediately; or*
- Refer the matter back to the decision maker for reconsideration.*
- Refer the matter to full Council, if it appears that the decision which the Executive has taken is outside the Budget & Policy Framework.*

*18.11 When the Overview & Scrutiny Committee meets to consider whether to*

*call-in an executive decision it may request the decision maker to attend to explain the decision. Wherever possible, the decision maker will attend.*

- 18.12 *Where the Overview & Scrutiny Committee refers the matter back to the decision maker for reconsideration or to the Council, it must set out its reasons for doing so in writing. The Proper Officer will ensure that these reasons are brought to the attention of the Council or the decision maker when they consider the matter.*
- 18.13 *If the matter is referred back to the decision maker for reconsideration, they will then reconsider their decision usually within seven working days of the date on which it is referred back to them in writing by the Proper Officer. The decision maker may amend the decision or not, before adopting a final decision. The final decision will be recorded by the Proper Officer and published. This decision is not subject to call in.*
- 18.14 *Should the decision maker be Mayor & Cabinet, The Chair (or in their absence the Vice-Chair) of the Overview & Scrutiny Committee will be entitled to attend and speak at any meeting at which the original decision is being re-considered.*
- 18.15 *If the decision was made by the Mayor acting alone, or by an individual member of the Mayor and Cabinet, or an individual officer, the Chair (or in their absence the Vice-Chair) of the relevant Overview & Scrutiny Committee may attend when that person reconsiders their decision, to address them before their further decision is made.*
- 18.16 *If the matter is referred to Council for being outside the Budget & Policy Framework, then:*
- *the Council must meet within 21 days of the decision of the relevant Overview & Scrutiny Committee to refer it to Council, to consider the matter. If the Council does not meet, then the decision becomes effective on expiry of the 10-day period, unless the Monitoring Officer advises that the decision would be ultra vires, in which case the decision will not be effective until the Executive has formally considered the advice of the Monitoring Officer.*
  - *If, when the Council meets, it does not object to a decision made by the Executive, (either because it is of the view that the original decision was consistent with the budget and policy framework or it has amended the budget and/or policy framework to accommodate it,) the decision will become effective immediately on the conclusion of the Council meeting at which it is considered.*
  - *If, when the Council meets, it does object to the Executive decision, but it is not contrary to the policy framework or contrary to or wholly inconsistent with the budget, the Council has no power to change the Executive's decision. It must refer the matter back to the decision maker with its comments in writing. The decision will not be effective pending reconsideration by the decision maker, who may or may not amend the original decision in the light of Council comments before making a final decision.*

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

### **Recommendation**

- 4.3. **With regard to the Council's Scrutiny Procedure Rules, to give effect to the decision of Governance Committee on 4<sup>th</sup> March 2025, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7<sup>th</sup> May 2025:**
- **The deletion of references to Local Assemblies;**
  - **The provisions confirming Cabinet Advisors cannot sit on Overview & Scrutiny Committee but can sit on select committees in limited circumstances as detailed at paragraph 4.2 of this report;**
  - **The provisions relating to the election of Chair & Vice Chair by the AGM of the Council as detailed in paragraph 4.2 of this report;**
  - **The provisions relating to call-in detailed in paragraph 4.2 of this report; and**
  - **The full Scrutiny Procedure Rules attached to this report as Appendix 1.**

## **5. Scheme of Delegation**

- 5.1. With regard to executive functions, Lewisham's Constitution contains a general list of matters reserved to the Executive, e.g.:

*Decisions relating to the options for future service delivery, including whether the service should be externalized, taken in house or commissioned jointly with another agency, where the value of the service is at least £500,000 per annum.*

- 5.2. For each Chief Officer separately there are specific delegations for their area of responsibility and details of specific matters within their area of responsibility that are reserved to members.
- 5.3. There are provisions in relation to Grants & Voluntary Organisations, Contracts, Property, Debt Write-Off, Virements, Employment Matters, Bidding for External Work and Crime & Disorder, and for each separately there are specific delegations to officers and specific matters reserved to members.
- 5.4. With regard to non-executive functions there are detailed provisions that repeat elements of the Mayor's Executive Scheme of Delegation;.
- 5.5. For each Executive Director, the same provisions are repeated, which run to many pages, setting out provisions relating to the purpose of the scheme of delegations, responsibilities, nominees, decision-making, e.g.:

*The Place Directorate Scheme of Delegation sets out the post titles of those officers whom the Executive Director for Place has nominated to take decisions on areas from the Council and Mayoral Schemes of Delegation where responsibility has been delegated to the Executive*



*Director for Place. The Executive Director for Corporate Resources delegates the financial matters listed in this scheme to the Executive Director for Place unless otherwise stated.*

5.6 For each Executive Director, many of the same delegations are repeated, e.g. applications for external funding, subscriptions and bad debt write-offs.

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

#### Newham

Common responsibilities are delegated to all Executive Directors, e.g., to secure the implementation of decisions of the Council and the Executive falling within their respective portfolio.

Delegations structured to allow each Chief Officer to make decisions relating to any Executive or Council function falling within their area, with exceptions, for example the placing of contracts with a value in excess of £500,000.

#### Tower Hamlets

The Scheme combines Council and Executive delegations together and states the level of officer authorised to make decisions, i.e., Corporate Director, Director, Head of Service.

#### Hackney

Executive Functions - where not specifically reserved to the Elected Mayor, the wider Cabinet or a Committee of the Cabinet, any Group Director may exercise any executive function falling within their directorate or budget area.

Non-Executive Functions - where not specifically reserved to full Council or delegated to a Council committee by law or by this Constitution, any Group Director may exercise any non-executive function falling within their directorate or budget area.

5.8. The workshop was asked to consider the following questions:

Noting that the Executive delegations are a matter the Mayor and that Executive and Non-Executive delegations are subject to approval at the AGM each year:

- Does the Workshop agree that a single Scheme of Delegation covering both Executive and Non-Executive functions would be preferable?
- Does the Workshop agree that a simplified Scheme of Delegation, which is easier to navigate, and removes the current repetition would be preferable?
- Is the Workshop supportive of amending the provisions that relate to grant funding for applications to be officer decisions but acceptance of grant funding at the current thresholds to be a member decision?

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

There was strong support for the following:

- A single Scheme of Delegation covering both Executive and Non-Executive delegations to officers;
- A simplified Scheme of Delegation, which is easier to navigate;
- The removal of repetitions.

Overall, there was support for the following:

- Removal of the requirement for a Mayor & Cabinet decision to make a grant funding application;
- That where officers are considering making an application for grant funding that they first consult with the relevant Cabinet Member and/or the Mayor.

There were no strong views expressed as to whether the new simplified Scheme of Delegation should be structured to (a) state that which offers can do, or (b) that which is reserved to members, although support for the simplest and easiest scheme to understand and operate was clear.

5.10. The Officer recommendation to the Governance Committee is that the Scheme of Delegation is amended to include detailed provisions that:

- Are structured as a single Scheme of Delegation covering both Executive and Non-Executive delegations, which is simplified, easier to navigate and removes repetitions;
- Are structured to allow officers to make decisions relating to any Executive and Non-Executive Council functions falling within their area, with clearly stated 'reserved matters' and subject to compliance other elements of the Constitution, e.g., the Financial Procedure Rules, Contract Procedure Rules and the Protocol for Officers Making Decisions;
- Remove the current requirements for a Mayor & Cabinet decision to make a grant funding application and includes a provision that where officers are considering making an application for grant funding that they first consult with the relevant Cabinet Member and/or the Mayor.

**Recommendation:**

5.10 **With regard to the Scheme of Delegation, to agree the following principles, whilst noting that the detailed wording of the Scheme of Delegation 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 the Scheme of Delegation is structured as a single Scheme of Delegation covering both Executive and Non-Executive delegations, which is simplified, easier to navigate and removes repetitions;**
- **That the Scheme of Delegation is structured to allow officers to make decisions relating to any Executive and Non-Executive Council functions falling within their area, with clearly stated 'reserved matters' and subject to compliance other elements of the Constitution, e.g., the Financial Procedure Rules, Contract Procedure Rules and the Protocol for Officers Making Decisions;**
- **That the Scheme of Delegation removes the current requirement for a Mayor & Cabinet decision to make a grant funding application and includes a provision that where officers are considering making an application for grant funding that they first consult with the relevant Cabinet Member and/or the Mayor.**

## **6. Members' Code of Conduct**

6.1. The Localism Act 2011 established the current standards and conduct framework for local authorities. Every local authority must adopt a Code of Conduct for Members which is consistent with the 7 Nolan Principles and contains rules on requiring members to

register and disclose pecuniary and non-pecuniary interests.

- 6.2. The Local Government Association published an updated Model Code, which councils can choose whether to adopt or not. On 11<sup>th</sup> December 2024 the Council's Standards Committee resolved to hold a workshop to undertake a detailed review of the Model Code.
- 6.3. The workshop was held on 21<sup>st</sup> January 2025. The conclusions from the Standards Committee workshop were that the Model Code:
  - Provides clearer explanations of the standards expected;
  - Clearly describes the circumstances when it applies;
  - Provides details definitions and explanations;
  - Would much improve understanding for both members and the public as well as compliance.
- 6.4. The Committee will meet again formally on 9<sup>th</sup> April 2025 and is likely to recommend that the Council adopts the Model Code with some minor amendments.
- 6.5. Lewisham's current Code of Conduct is overly legalistic and difficult to read. Newham, Tower Hamlets and Hackney Councils have adopted the Model Code.
- 6.6. The views expressed at the workshop can be summarised as strongly supportive of the Model Code as:
  - There is a clear need for an improved Code;
  - The current code is open to misunderstanding and ambiguity.
- 6.7. The Officer recommendation to the Governance Committee is to note that the Council's Standards Committee will be formally considering the Members Code of Conduct at its meeting on 9<sup>th</sup> April 2025 and to endorse the adoption of the The Local Government Association updated Model Code of Conduct and guidance subject to any minor amendments the Standards Committee deems necessary following its recent workshop.

#### **Recommendation**

- 6.8. **With regard to the Council's Member Code of Conduct, to:**
  - **note that the Council's Standards Committee will be formally considering the Members Code of Conduct at its meeting on 9<sup>th</sup> April 2025;**
  - **endorse the adoption of the The Local Government Association updated Model Code of Conduct and guidance subject to any minor amendments the Standards Committee deems necessary following its recent workshop.**

## **7. Protocol for Member/Officer Relations**

- 7.1. The purpose of the Protocol for Member/Officer Relations is to ensure an effective working relationship between members and staff, which is critical to the successful operation of Council business. Excellent working relationships are required to deliver best value services to local citizens and to maintain confidence in local government in Lewisham. The protocol is designed to help

members and staff to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other.

- 7.2. The protocol includes sections that cover the following areas: Introduction to the Protocol; Respective roles of Members and Officers; What Members can expect from Officers; What Officers can expect from Members; Provisions relating to close personal relationships; Provisions relating to political groups and Provisions relating to report writing.
- 7.3. Lewisham's protocol is not as detailed as other protocols considered below.
- 7.4. A review of other Mayoral authorities is set out below: -

#### Newham

Sets out the roles of members and officers and the differences between their roles and confirms the need for a constructive and collaborative relationship between members and officers.

Gives practical examples of the application of the protocol, e.g.,

*What if ... the chief whip of the majority group of the Council asks a junior officer to attend a meeting of her political group to brief members about the Council's draft budget.*

*With the following response...The request should be directed to the Chief Executive or s.151 officer to decide. Briefings can be provided but not as an alternative to public debate or decision and cannot be party political. When officers attend a group meeting, the difference between the Group and the Council must be respected and political discussion should not take place with the officer present. The offer should be extended to all political groups.*

Sets out potential enforcement for members and officers if there is a breach of the Protocol.

#### Tower Hamlets

Sets out details of the roles of members and officers and the differences between them and the general expectations of conduct. The protocol contains detailed provisions regarding: Respect; Bullying; Impartiality of officers; Confidentiality; Disrepute; Use of position; Use of resources & facilities and Interests.

Sets out provisions for complying with the Protocol and how to raise concerns.

#### Hackney

Sets out details of the relationship between members and officers; and contains provisions dealing with: The role of members and officers; Expectations of members and officers; Relationship between Chairs of committees and officers; Relationship between Scrutiny Commission and officers; Provisions relating to party groups; Access to Documents & information; Provisions relating to publicity & press releases; Provisions relating to correspondence and Procedural provisions if things go wrong.

- 7.5. The workshop was asked to consider the following questions:
- Lewisham's Protocol does not contain detailed provisions in the same way that Tower Hamlet's Protocol does. Does the Workshop agree that some greater detail would be helpful?
  - Lewisham's Protocol does not contain example scenarios in the same way that Newham's Protocol does? Does the Workshop agree that some examples would be helpful?
  - Lewisham's Protocol does not contain provisions on what to do when things go wrong or there are potential breaches of the Protocol. Does the Workshop agree that some provisions are necessary?
- 7.6. The views expressed at the workshop were strongly supportive of amending the current Protocol for Member/Officer Relations and can be summarised as follows:
- Greater detail would be helpful;
  - Example scenarios are helpful for both members and officers;
  - Provisions relating to the relationship with committee chairs and the scrutiny function should be included;
  - The Protocol should contain provisions on what to do when things go wrong or there are potential breaches of the Protocol.
- 7.7. The Officer recommendation to the Governance Committee is to that the Protocol for Member/Officer Relations is amended to provide example scenarios, provisions relating to the relationship with committee chairs and the scrutiny function and provisions on what to do when things go wrong or there are potential breaches of the Protocol. The specific wording to be included as follows:

#### Example Scenarios

*What if ...*

*The chief whip of the majority group of the Council asks a junior officer to attend a meeting of her political group to brief members about the Council's draft budget.*

*Response:*

*The request should be directed to the Chief Executive or s.151 officer to decide. Briefings can be provided but not as an alternative to public debate or decision and cannot be party political. When officers attend a group meeting, the difference between the Group and the Council must be respected and political discussion should not take place with the officer present. The offer should be extended to all political groups.*

*What if ...*

*A team manager facing disciplinary action contacts members he knows to complain about his perception of unfair treatment and to see if they can influence the outcome of his case.*

*Response:*

*A member should politely refuse assistance and refer the officer to his union. The member should report the approach to HR. Except at chief officer level, all employment matters are exclusively for officers to determine. It is a disciplinary offence to lobby members for support.*

*What if ...*

*A member overhears two officers having a discussion about a political party's policies in the office. The member asks the officers how they are going to vote in the upcoming election. They both confirm that over their dead bodies would they vote for the member's party.*

*Response:*

*Discussions about party politics should not take place in the office, especially if a member may overhear. A member should not ask any officer about their political views or intentions. The officers must remain politically neutral and not express their voting intentions. A polite no is appropriate.*

#### *Relationship between the Chair and Members of Committees and Officers*

*The Chair and Members of Council Committees must give Officers the opportunity to present any report and give any advice they wish to present or give.*

#### *Relationship between the Chair and Members of the Overview & Scrutiny Committee and its Select Committees and Officers*

*The Chair and members of the Council's Overview & Scrutiny Committee and its Select Committees must:*

- (a) Seek the advice of the Monitoring Officer where they consider there is doubt about the lawfulness of a decision, or the Monitoring Officer or the s151 Officer where they consider a decision of the Mayor, or the Cabinet might be contrary to the Budget & Policy Framework.*
- (b) When considering calling Officers to give evidence, liaise with the relevant Executive Director as to the most appropriate Officer to attend.*
- (c) When asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but Officers must not be asked questions relating to political views.*
- (d) Where they consider it appropriate, ask Officers to explain and justify advice given to executive members prior to decisions being undertaken and justify decisions they themselves have taken under the Council's Constitution.*
- (e) Not question Officers in such a way as to be in breach of the Council's HR policies nor deal with matters which are of a personal or disciplinary nature.*
- (f) At all times respect the political impartiality of the Officers.*

*Officers must:*

- (a) *Maintain political impartiality at all times when commenting on the Cabinet's/Council's policies and actions.*
- (b) *Be prepared to explain and justify advice given to Councillors of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegations.*
- (c) *Ensure that appropriate Officers appear before the relevant panel.*

#### *If things go wrong*

*From time to time the relationship may break down or become strained. In such cases, it will always be preferable to resolve matters informally.*

#### *Procedure for Mayor and Councillors*

*In the event that the Mayor or Councillor is dissatisfied with the conduct, behaviour or performance of an Officer then they should raise the matter with the appropriate Executive Director. Where the matter concerns an Executive Director, it should be raised with the Chief Executive. Where the matter concerns the Chief Executive, it should be raised with the Mayor. The Mayor may raise concerns about the Chief Executive with the Monitoring Officer.*

*If the Mayor or any Councillor is concerned about the way a service or part of it is performing as opposed to the conduct of a specific Officer, and if the concerns cannot be resolved through discussion with the manager of the service, then this should be raised with the Chief Executive.*

#### *Procedure for Officers*

*If an Officer wishes to raise a concern about the behaviour of the Mayor or a Councillor, they can either escalate it to their line manager, Executive Director or to the Council's Monitoring Officer.*

*Having been notified of a concern in this way, the line manager, Executive Director or Monitoring Officer will take appropriate action, including approaching the person concerned and raising with the Group Leader and/or Whip or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.*

*Group Leaders and Whips should promote a positive atmosphere of trust, respect and understanding and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature, a Group Leader and/or Whip will actively consider the matter and seek to achieve a satisfactory outcome, reporting that outcome to the Officer who reported the issue.*

#### *Advice on the application of the Protocol*

*Advice on the application of this Protocol should be sought from either the Chief Executive or the Monitoring Officer.*

## **Recommendation**

- 7.8. **With regard to the Protocol for Member/Officer Relations, to agree and endorse the following for approval and adoption at the Annual General Meeting of the Council on 7th May 2025:**
- **That example scenarios be included in the Protocol as detailed in paragraph 7.7 of this report;**
  - **That provisions relating to the relationship with committee chairs and the scrutiny function be included in the Protocol as detailed in paragraph 7.7 of this report;**
  - **That the Protocol contain provisions on what to do when things go wrong or there are potential breaches of the Protocol as detailed in paragraph 7.7 of this report.**
  - **The full Protocol for Member/Officer Relations, attached to this report as Appendix 2.**

## **8. Protocol on Member use of IT**

- 8.1. The current Lewisham Protocol summarises acceptable use of IT equipment for Members.
- 8.2. In the workshop, Members were asked for feedback on whether it is preferable to have a summary relating to members' use of IT in a protocol that applies to officers and Members, or to keep the current Protocol but revise it to reflect current standards.
- 8.3. If the view was that the current Protocol be retained, Members views on the following were sought:
- Removing reference to Member social media policy
  - Link to 'Acceptable Use of IT' policy
  - Tidying up list of improper use of IT
  - Making clear 'IT' includes all Council technology
  - Remove provision explicitly permitting personal use.
- 8.4. A review of other Mayoral authorities is set out below: -

### Tower Hamlets

*"You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Member. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use and are not to be used for business or personal gain."*

### Hackney

*"You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor... These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use."*

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



- There was strong support for a separate IT Policy for Members, which reflects the nature of the role Members have and recognition that it is different from Officers;
- There was recognition that IT for Members and any related policies is a wider piece of work than the current review of the Constitution and that Officers should consider this matter separately, review the current arrangements and policies and have revised arrangements and policies in place in advance of new member induction as a result of the May 2026 local elections.

8.6. The Officer recommendation to the Governance Committee is to remove the Protocol on Member use of IT from the current review of the Constitution and that officers carry out a review of the current arrangements and policies and have revised arrangements and policies in place in advance of the new member induction as a result of the May 2026 local elections

**Recommendation:**

8.7. **With regard to the Protocol of Member use of IT, the Governance Committee recommend to the Annual General Meeting of the Council on 7th May 2025 that officers carry out a review of the current arrangements and policies and have revised arrangements and policies in place in advance of the new member induction as a result of the May 2026 local elections.**

## **9. Employee Code of Conduct**

9.1. The purpose of the Employee Code of Conduct is to set out the standard of behaviour expected of all officers in carrying out their duties for the Council, including the ways in which they interact with elected councillors and senior management. The fundamental aim of this Code of Conduct is to create and maintain public confidence in the Council. It is designed to promote public confidence in the actions of officer and encourages officers not only to avoid actual impropriety, but to avoid suspicion or appearance of improper conduct.

9.2. A review of other Newham, Tower Hamlets and Hackney councils confirms that the provisions contained in Lewisham's Employee Code of Conduct are comparable with those three councils.

9.3. Officers sought the views at the workshop on whether the Employee Code of Conduct should be tidied up and mirror the style and tone of the Member Code of Conduct – move to "you" plus guidance, without changing any specific provisions.

9.4. The views expressed at the workshop were supportive of this suggestion put forward by officers.

9.5. There are no specific changes that were considered at the workshop. A copy of the Employee Code of Conduct is appended to this report at Appendix 3.

**Recommendation:**

9.6. **To agree and endorse the Employee Code of Conduct attached to this report as Appendix 3, for approval and adoption at the Annual General**

## **Meeting of the Council on 7<sup>th</sup> May 2025.**

### **10. Financial implications**

10.1. Not Applicable

### **11. Legal implications**

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

### **12. Equalities Implications**

12.1. 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.

12.2. 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.

12.3. 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.

### **13. Background papers**

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

[Lewisham Council - Our constitution](#)

### **14. Report author and contact**

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

Email: [jeremy.chambers@lewisham.gov.uk](mailto:jeremy.chambers@lewisham.gov.uk)

## **Appendix 1**

### **Scrutiny Procedure Rules**

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Arrangements for overview and scrutiny**

- 1.1 The Council will have an overview and scrutiny committee as set out in Article 6 of the Constitution and will appoint to it as it considers appropriate from time to time. The Overview and Scrutiny Committee will appoint the select committees and any task and finish groups as set out in Article 6. The Council may also establish and appoint joint select committees in accordance with Article 6. The Council may amend its overview and scrutiny arrangements from time to time in accordance with that Article.

### **2. Constitution and terms of reference**

- 2.1 The constitution and terms of reference for the overview and scrutiny committee and its select committees will comply with the law and will be as set out in Article 6 or as amended from time to time. At its first meeting the overview and scrutiny committee will establish those select committees set out in Article 6. The Overview & Scrutiny Committee may appoint task and finish groups in accordance with Article 6 at any time.

### **3. Who may sit on overview and scrutiny committee?**

- 3.1 All councillors except members of the Executive may sit on the overview and scrutiny committee. However, any member who is appointed by the Mayor to serve on the Executive for any part of a year may not serve as a member of Overview and Scrutiny Committee or its select committees thereafter during that year. No member may be involved in scrutinising a decision which they have been involved in making.
- 3.2 Cabinet Advisors cannot sit on the Overview & Scrutiny Committee and may only sit on a select committee where the portfolio covered by their Cabinet Advisor role does not directly conflict with the terms of reference of the select committee.

### **4. Co-optees**

- 4.1 Save for the Safer & Stronger Communities Select Committee, the Council's arrangements for overview and scrutiny do not currently provide that co-optees may be appointed to its Overview and Scrutiny Committee or its select committee. Subject to legislation to the contrary, co-optees on any overview and scrutiny committee or select committee may not vote, unless the Council approves a scheme permitting co-optees to vote in accordance with paragraphs 11 of Schedule A1 Local Government Act 2000 as amended or other relevant legislation in force from time to time.
- 4.2 Diocesan and governor representatives are appointed to the Overview and Scrutiny Committee and the Children & Young People Select Committee. By law they have voting rights.

4.3 Voting co-optees (where appointed in accordance with a scheme) and the education and parent representatives on Overview and Scrutiny Committee and the Children and Young People Select Committee may not chair those bodies.

4.4 The Council will secure the involvement of the local community and other stakeholders by other means such as taking evidence from them, and by a variety of consultative methods. The Council may amend its arrangements to provide for co-optees to be appointed at any time.

## **5. Education representatives**

5.1 The Council will appoint to its Children & Young People Select Committee and any relevant overview and scrutiny body dealing with education matters the voting representatives set out in the table appearing in Article 6.3 of the constitution.

## **6. Meetings – where and when**

6.1 The Council's AGM agrees a calendar of meetings. Any additional meetings will take place at such times and locations as the Proper Officer thinks fit. Meetings of the Overview and Scrutiny Committee, a select committee, or a task and finish group may be called by:

- (a) The chair of that committee, select committee or task and finish group.
- (b) Any five members of the relevant committee by request in writing to the Proper Officer.
- (c) The Head of Paid Service, Chief Finance Officer or Monitoring Officer.

## **7. Quorum**

7.1 The quorum for an Overview and Scrutiny Committee or select committee, is one quarter of the entire membership or three, whichever is the larger.

## **8. Who chairs overview and scrutiny committees**

8.1 The Chairs and Vice Chairs of all committees and sub-committees are appointed by the Annual General Meeting of the Council. At the first meeting in the municipal year, the Overview and Scrutiny Committee will acknowledge the appointments made by Council.

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

8.3 In the absence of the Chair and Vice Chair at any meeting of the Overview and Scrutiny committee or its select committees, the meeting will appoint a Chair for that meeting from amongst those members present.

8.4 Neither the Speaker of the Council nor the Deputy Speaker, education and parent/representatives nor any co-optee may chair the Overview and Scrutiny Committee, a select committee or Task and Finish Group.

## **9. Work programme**

- 9.1 At the beginning of the municipal year, each select committee will draw up a draft work programme for that year. In doing so it will specifically take into account the views of members of that select committee who are not members of the largest political group. The select committee will submit the draft to the Overview and Scrutiny Committee for consideration normally by the end of May each year.
- 9.2 The Overview and Scrutiny Committee will then consider the proposed work programmes of each of the select committees and devise a co-ordinated overview and scrutiny work programme which avoids duplication of effort and facilitates the effective conduct of business. The Overview and Scrutiny Committee may amend the work programme of any of the select committees but will not normally do so unless it is necessary to ensure the effective conduct of Council business. Once the Overview and Scrutiny Committee has approved the select committee work programme, the select committee will implement it.

## **10. Agenda items**

### Members of the Committee/Sub-Committee

- 10.1 Each member of the Overview and Scrutiny Committee and select committees is entitled to refer a matter relevant to the work of that committee/sub-committee to be placed on the agenda for, and discussed at, a meeting of the overview and scrutiny committee/select committee of which they are a member. Requests for items to be placed on the relevant agenda should be made to the Proper Officer, who will comply.

### The Council and/or the Executive

- 10.2 The Council and/or the Executive may request that an overview and scrutiny committee/select committee investigate and/or review and/or report on any particular area of Council activity or matter of concern to local people. The overview and scrutiny committee or select committee will respond to such requests as soon as their work programme permits. Where the overview and scrutiny committee/select committee produce a report to the Executive and/or the Council, the Council and/or the Executive will consider the report within 2 months of receiving it.

### The Councillor Call for Action

- 10.3 Any member may refer to an overview and scrutiny select committee of which they are not a member, any matter relevant to its work, provided it is not an excluded matter. In deciding whether to do so, the member must first have regard to any guidance issued by the Secretary of State.
- 10.4 For the purpose of this paragraph, excluded matters are those:
- i. relating to Planning decisions;
  - ii. relating to Licensing decisions;
  - iii. relating to a matter in respect of which the person has a right of recourse to review or a right of appeal under any enactment;
  - iv. which are vexatious, discriminatory or not reasonable to be included on the agenda, or discussed at, a meeting of the overview and scrutiny committee/sub-committee.

- v. A local crime and disorder matter (which is subject to separate provisions see paragraph 22 below).

10.5 However, where the matter consists of an allegation that a Council function has not been discharged at all, or that the Council has failed/is failing on a systemic basis, it is not an excluded matter notwithstanding that it relates to a Planning or Licensing decision, or a decision where there is a right of recourse to review or a right of appeal under any enactment.

## **11. Councillor Call for Action procedure**

11.1 In deciding whether to exercise its powers in relation to a referral under paragraph 10.4 above, the overview and scrutiny committee/select committee may have regard to any powers exercisable by the member under Section 236 Local Government and Public Involvement in Health Act 2007 (exercise of functions by councillors) and any representations by the member as to why it is appropriate for the committee/sub-committee to exercise its powers.

11.2 If the committee/sub-committee decides not to exercise its power in relation to the matter, it must notify the member of its decision and the reasons for it.

11.3 Subject to the provisions relating to confidential and exempt information in place from time to time, the committee/sub-committee must give the referring member a copy of any report/recommendations it provides to the Council/Executive.

## **12. Duty of Executive/Council to respond to Councillor Call for Action**

12.1 When the overview and scrutiny committee or a select committee or makes a report and/or recommendations to the Council or to the Executive under the Councillor Call for Action, the overview and scrutiny committee/select committee may publish its report and/or recommendations and must give notice in writing to the Council or the Executive requiring the Council or the Executive, within 2 months of receipt by the Council or Executive of the report/recommendations, or (if later) the notice:-

- i. to consider the report or recommendations.
- ii. to respond to the overview and scrutiny committee/sub committee indicating what (if any) action it intends to take.
- iii. if the overview and scrutiny committee/sub committee has published its report/recommendations to publish its response.
- iv. if the overview and scrutiny committee/sub committee provided a copy of its report/recommendations to a member referring a matter to it, to provide a copy of the response to that member.

12.2 It shall be the duty of the Executive or Council served with a notice to respond to comply with the notice within 2 months of receipt of the report/recommendations or if later, the notice.

12.3 Requirements in relation to publication in this paragraph are subject to the provisions relating to confidential/exempt information in place from time to time.

12.4 The Secretary of State may amend the requirements relating to the referral of matters to the Executive or Council by overview and scrutiny bodies, and the

publication of reports and responses. Where such amendments are made, they shall supersede the provisions of the Constitution and shall be deemed to be incorporated into it.

12.5 There are specific provisions relating to referral made under Section 19 and 20 Police and Justice Act 2006

### **13. Confidential and exempt information in overview and scrutiny reports and responses**

13.1 This paragraph applies to:

(1) the publication of any document which is:

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

(2) the provision of any such document to:

- a member who referred the matter to the overview and scrutiny committee committee/select committee; or
- the provision of such a document to a partner authority.

13.2 The overview and scrutiny committee/select committee or Council/Executive in publishing the document or providing it to a partner authority must exclude confidential information and may exclude exempt information.

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

13.4 For the purpose of this paragraph 13, exempt and confidential information have the meaning set out in Section 100A and 100I and Schedule 12A Local Government Act 1972 as amended.

### **14. Information from and reports concerning partner authorities**

14.1 The overview and scrutiny committee/ select committees may request in writing such information of relevant partner authorities as is reasonably required to discharge their functions in relation to the area and its inhabitants. Subject to certain exceptions set out by law from time to time, the relevant partner authority must respond.

14.2 The overview and scrutiny committee/ select committees may make a report and/or recommendations to the Council/Executive about the functions of a relevant partner authority exercisable in the area or in relation to its inhabitants.

14.3 Where it does so, the overview and scrutiny committee/select committee may give written notice to the partner authority requiring it to have regard to the report/recommendations in exercising its functions. Such notice must be



accompanied by a copy of the report and/or recommendations, and it will be the duty of the partner authority to comply with the notice.

- 14.4 'Relevant partner authority' means any person which is a partner authority for the purposes of Chapter 1 Part 5 Local Government and Public Involvement in Health Act 2007 other than a chief officer of police.
- 14.5 Paragraph 14.2 does not apply to a health body (i.e. NHS Trust, NHS foundation trust or a primary care trust) if the report has been given to that body under provisions relating to the scrutiny of health (see paragraph E23 below).
- 14.6 This paragraph 14 does not apply to a report and/or recommendations about a crime and disorder matter under Section 19 Police and Justice Act 2006 about which there are separate provisions applying to overview and scrutiny (see E 22 below).

## **15. Policy review and development**

- 15.1 The role of the overview and scrutiny committee and its select committees in relation to the development of the Council's budget and policy framework is set out in detail at Section F of this Part IV, the Budget and Policy Framework Procedure Rules.
- 15.2 The overview and scrutiny committee, or as appropriate its select committees may also make proposals to the Executive for development of strategic policy matters that do not form part of the policy and budget framework in so far as they relate to matters within their terms of reference.
- 15.3 The Overview and Scrutiny Committee and its select committees may make enquiries and investigate the options for future direction in policy development and may appoint advisors and assessors to assist them in that process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things they reasonably consider to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and pay advisors, assessors and witnesses a reasonable fee and expenses for doing so.
- 15.4 Once the Overview and Scrutiny Committee/ select committee has formed recommendations for development of policy, it will submit that report to the Executive for consideration. As soon as reasonably practicable after receiving the report (usually within 6 weeks) the Executive will consider the report together with a report from the relevant Executive Director(s), or their nominee(s), setting out officers' comments on the recommendations or proposals and their proposed response to the select committee or Overview and Scrutiny Committee. The referring Select Committee or Overview and Scrutiny Committee will be advised at their next meeting of the date upon which the Executive is programmed to consider the proposed response. The formal response approved by the Executive will then be referred back to the next available meeting of the Select Committee or Overview and Scrutiny Committee. If the recommendations would entail a change to the policy framework or the budget, then those changes can only be affected with the approval of Council.

- 15.5 The agenda for each Executive meeting will include an item “Issues referred by Overview and Scrutiny”. Reports from the select committees will be included at this point, unless they have been considered in relation to a substantive item on the agenda within one month of the receipt of the report from overview and scrutiny.
- 15.6 If the Mayor has not delegated powers in relation to the matter which is the subject of an overview and scrutiny report, or where they have delegated power to the Executive acting collectively, a committee of the Executive or to an individual Executive member, then the report will be submitted to the Mayor and the relevant Executive member(s) and to the Proper Officer. The relevant individual member(s) / the Mayor will consider their response in accordance with the Mayoral scheme of delegation, taking appropriate advice including service, legal and financial advice and will respond to the report in writing, copies of which will be given to the Proper Officer and reported to the Executive.
- 15.7 The overview and scrutiny committee will in any event have access to the Executive’s key decision plan in accordance with Rule G 17. Even where an item has not been the subject of a detailed review, a select committee may have views which it wishes to express on an up-and-coming matter. Where this is the case, a copy of those views will be given to the Proper Officer at least 10 days before the Executive is due to make a decision on the matter in question. The Proper Officer will ensure that those views are brought to the attention of the decision maker before the decision is made. The record of the decision will specifically deal with the decision maker’s response to the overview and scrutiny comments.

## **16. Rights of overview and scrutiny committee members to documents**

- 16.1 In addition to their rights as councillors, members of the overview and scrutiny committee have additional rights to documents, and to notice of meetings set out in the Access to Information Rules.
- 16.2 Nothing in these Rules prevents liaison between the Executive and select committees as appropriate.

## **17. Members and officers giving account**

- 17.1 The overview and scrutiny committee and select committees may scrutinise and review decisions made, or actions taken in connection with the discharge of Council functions within their overview and scrutiny remit. They may review documentation and may require the Mayor, Deputy Mayor and any other member of the Executive, ward member exercising delegated decision-making powers, or the Chief Executive and/or any Executive Director to attend before it to explain in relation to matters within their remit:
- any particular decision or series of decisions.
  - the extent to which actions taken implement Council policy.
  - their performance.

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

- 17.2 In addition, those officers listed in the Council's Petition Scheme may also be required to attend a scrutiny committee in accordance with that scheme.
- 17.3 Where a member or officer is requested to attend under this rule, the Chair will inform the Proper Officer. The Proper Officer will inform the person concerned in writing giving at least 7 working days' notice of the meeting at which they are asked to attend. The notice will give detail of the item on which they are required to attend and whether any papers are required for the committee. If the account to be given requires the production of a report, then the member or officer required to attend will be given enough time to prepare it.
- 17.4 Where exceptionally the member or officer is unable to attend as required, an alternative date will be arranged.
- 17.5 The overview and scrutiny committee and select committees may invite people other than members and officers to address them on matters of local concern and/or answer questions. It may, for example, wish to hear from other service providers, local residents and stakeholders, and may invite them to attend.

## **18. Call-In**

- 18.1 The following Executive decisions may be subject to call-in:
- the Mayor
  - the Executive
  - a committee of the Executive
  - an individual member of the Executive
  - an individual ward member
  - an officer (if it is a key decision)
  - an area committee
  - joint arrangements
- 18.2 The following Executive decisions shall not be subject to call-in:
- decisions to note reports.
  - decisions to recommend matters for onward consideration and decision by Council.
  - decisions taken by officers relating to the provision of services to individual service users, (for example when a service user goes into residential care or child into a residential special school)
- 18.3 When an Executive decision is made the decision will be published by the Proper Officer on the Council's website, including where possible by electronic means, and will in any event be available at the Council's main offices, within two days of being made. Copies of the decisions will be sent to all members of the Council's Overview & Scrutiny Committee within the same timescale by the Proper Officer.
- 18.4 The notice will bear the date on which it is published and will specify that the decision will come into force on the expiry of seven working days after the publication of the decision unless the decision is called-in in accordance with the provisions of paragraph 18.

- 18.5 If the decision has been taken in accordance with paragraph 19: Call-in and Urgency below, it will be effective on publication of notice that it has been made and cannot be called-in.
- 18.6 In order for a call-in to be valid, it must satisfy the following provisions:
- Be received by the Proper Officer before the expiry of seven working days after the publication of the decision.
  - Identify the Executive decision to which it refers.
  - Include specific and reasonable reasons for call-in.
    - Requests for call-in should include details of why the decision is defective and where appropriate suggest an alternative course of action.
    - Requests for call-in should not be made for party political purposes, for trivial reasons or where a decision is not liked.
  - Be made by at least seven (7) councillors that are not members of the Executive or Cabinet Advisors.
- 18.7 The Proper Officer will consider any application for call-in to determine its validity in accordance with paragraph 18.6. If the application for call-in is accepted the provisions of paragraphs 18.9 to 18.17 shall apply.
- 18.8 Should the Proper Officer be minded to reject the application for call-in, they must first consult with the chair of Overview & Scrutiny Committee before reaching a final decision. The reasons for rejecting any application for call-in will be communicated in writing to the lead councillor on the application.
- 18.9 Where an application for call-in has been accepted as valid by the Proper Officer, they shall convene a meeting of the Overview and Scrutiny Committee as soon as reasonably practicable to consider the call-in. Any Executive decision subject to a valid call-in shall not be implemented pending the conclusion of the call-in procedure.
- 18.10 When the Overview & Scrutiny Committee considers the Executive decision it may either:
- Take no action. The decision becomes effective immediately; or
  - Refer the matter back to the decision maker for reconsideration.
  - Refer the matter to full Council, if it appears that the decision which the Executive has taken is outside the Budget & Policy Framework.
- 18.11 When the Overview & Scrutiny Committee meets to consider whether to call-in an executive decision it may request the decision maker to attend to explain the decision. Wherever possible, the decision maker will attend.
- 18.12 Where the Overview & Scrutiny Committee refers the matter back to the decision maker for reconsideration or to the Council, it must set out its reasons for doing so in writing. The Proper Officer will ensure that these reasons are brought to the attention of the Council or the decision maker when they consider the matter.
- 18.13 If the matter is referred back to the decision maker for reconsideration, they will then reconsider their decision usually within seven working days of the date on which it is referred back to them in writing by the Proper Officer. The decision

maker may amend the decision or not, before adopting a final decision. The final decision will be recorded by the Proper Officer and published. This decision is not subject to call in.

- 18.14 Should the decision maker be Mayor & Cabinet, The Chair (or in their absence the Vice-Chair) of the Overview & Scrutiny Committee will be entitled to attend and speak at any meeting at which the original decision is being re-considered.
- 18.15 If the decision was made by the Mayor acting alone, or by an individual member of the Mayor and Cabinet, or an individual officer, the Chair (or in their absence the Vice-Chair) of the relevant Overview & Scrutiny Committee may attend when that person reconsiders their decision, to address them before their further decision is made.
- 18.16 If the matter is referred to Council for being outside the Budget & Policy Framework, then:
- the Council must meet within 21 days of the decision of the relevant Overview & Scrutiny Committee to refer it to Council, to consider the matter. If the Council does not meet, then the decision becomes effective on expiry of the 10-day period, unless the Monitoring Officer advises that the decision would be ultra vires, in which case the decision will not be effective until the Executive has formally considered the advice of the Monitoring Officer.
  - If, when the Council meets, it does not object to a decision made by the Executive, (either because it is of the view that the original decision was consistent with the budget and policy framework or it has amended the budget and/or policy framework to accommodate it,) the decision will become effective immediately on the conclusion of the Council meeting at which it is considered.
  - If, when the Council meets, it does object to the Executive decision, but it is not contrary to the policy framework or contrary to or wholly inconsistent with the budget, the Council has no power to change the Executive's decision. It must refer the matter back to the decision maker with its comments in writing. The decision will not be effective pending reconsideration by the decision maker, who may or may not amend the original decision in the light of Council comments before making a final decision.
- 18.17 The Council will put in place call-in arrangements in relation to executive decisions made by area committees if the Council appoints such bodies and the Mayor decides to delegate to them, and those call-in arrangements once agreed will form part of this Constitution.

## **19. Call In and Urgency**

- 19.1 The call-in procedure set out in Rule 18 above shall not apply where the decision being taken is urgent. A decision will be urgent if the delay likely to be caused by the call in process would seriously prejudice the interests of the Council or the public. The Speaker, and in their absence the Deputy Speaker, must agree in writing both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Speaker

and Deputy Speaker, the consent of the Chief Executive, or their nominee is required.

(d)

19.2 Decisions taken as a matter of urgency under this Rule must be reported to the next ordinary meeting of the Council together with the reason for urgency.

(e)

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

## **20. The party whip**

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

## **21. Procedure at overview and scrutiny meetings**

21.1 The business to be conducted at meetings of the Overview and Scrutiny Committee and its select committees will be:

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

21.2 When the select committees conduct investigations (for example with a view to policy development), the select committee/ Overview and Scrutiny Committee may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

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

## **22. Overview & Scrutiny of Crime and Disorder Issues**

22.1 For the purposes of these procedure rules:

- “responsible authority” means those defined as such by S5 of the Crime and Disorder Act 1998 and any amendments thereto from time to time, including the Council and the police; and
- “co-operating person or body” means those defined as such by S 5 and 38 of the Crime and Disorder Act 1998 and any person prescribed as such by the Secretary of State from time to time (currently the probation service)

- 22.2 The Council appoints an overview and scrutiny committee or sub committee to fulfil the overview and scrutiny function in relation to the discharge by responsible and co-operating persons/bodies of their crime and disorder functions, as required by section 19 Police & Justice Act 2006 as amended from time to time, and all other relevant legislation. The overview and scrutiny select committee with these functions is the Safer Stronger Communities Select Committee (see art 6.6).
- 22.3 The Safer Stronger Communities Select Committee may co-opt additional members to serve on that select committee. Any such co-optee is not entitled to vote on any particular matter unless the Select Committee so decides, and it may only do so in accordance with a co-option scheme agreed by the Council. A co-optee's membership may be limited to the exercise of the select committee's powers in relation to a particular matter or type of matter.
- 22.4 Membership of a person co-opted to serve on the Safer Stronger Communities Select Committee may be withdrawn at any time by the select committee.
- 22.5 Request for information The Safer Stronger Communities Select Committee may make a written request to a responsible body or co-operating person or body for information relating to:
- the discharge, or decisions made, or other action taken in connection with the discharge of their crime and disorder functions, or
  - local crime and disorder matters in respect of which the select committee has overview and scrutiny functions by virtue of section 19 of the Police and Justice Act 2006. (see para 22.10 below)
- 22.6 Supply of information Where a written request is made for information, the responsible authority/co-operating person or body must provide the requested information. It should be supplied no later than the date indicated in the request, but if some or all of the information cannot reasonably be provided by such date, it must be provided as soon as reasonably possible.
- 22.7 The information provided:
- must be de-personalised unless the identification of an individual is necessary or appropriate to enable the Safer Stronger Communities Select Committee to properly exercise its powers; and
  - shall not include information that would be reasonably likely to prejudice legal proceedings or current or future operations of the responsible authorities, whether acting together or individually, or of the co-operating person or bodies.
- 22.8 The Safer Stronger Communities Select Committee may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to answer questions. The select committee will give reasonable notice of the intended date of attendance. In the absence of reasonable notice, the person will not be required to attend.
- 22.9 If the Safer Stronger Communities Select Committee makes a report or recommendation to a responsible authority or to a co-operating person/body, that person or body must respond to the report/recommendation in writing within

28 days of the date of making the report/recommendation, or if this is not reasonably possible, as soon as reasonably possible after that.

22.10 With regard to agenda items. The following provisions apply:

- Any member of the Council may refer a local crime and disorder matter to the Committee for inclusion on the agenda and for discussion at a meeting of the select committee.
- In deciding whether to exercise its powers in response to the referral, the select committee will have regard to any powers available to the referring member by virtue of Section 236 Local Government in Health Act 2007 (exercise of functions by councillors) and any representations made by the referring member as to why it would be appropriate for the select committee to exercise its powers.
- If the select committee decides not to exercise its powers, it will inform the referring member and give reasons for its decision.
- Where the select committee makes a report/recommendations, it must supply a copy to the referring member and a copy to the responsible authorities and co-operating bodies/persons as it considers appropriate. It must inform those authorities/bodies that they must respond indicating what action (if any) they intend to take and that they must have regard to the report/recommendations in exercising their functions. A response must be made within 28 days or if that is not possible as soon as is reasonably possible thereafter.
- For the purposes of paragraph 22.9, a “local crime and disorder matter” means a matter concerning crime and disorder, in particular forms of crime and disorder that involve antisocial behaviour or other behaviour adversely affecting the local environment or the misuse of drugs, alcohol or other substances affecting all or part of the ward for which the member was elected or any person who lives or works in that area.

## **23 Overview & Scrutiny of health matters**

23.1 The Council has appointed the Healthier Communities Select Committee to carry out, among other things, the scrutiny of health bodies under the Local Authority (Public Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and other relevant legislation in place from time to time.

23.2 The Healthier Communities Select Committee may review and scrutinise any matter relating to the planning, provision and operation of health services in the area.

23.3 If a matter is referred to it by Local Healthwatch, or a local Healthwatch organisation, the Select Committee must invite interested parties to comment and consider the matter having regard to relevant information, including that provided to it by Healthwatch. The Council will acknowledge the referral within 20 days and keep the referrer informed of action taken.

23.4 The Healthier Communities Select Committee may make reports and recommendations to local NHS bodies and to the Council/Executive on any matter reviewed or scrutinised by it. Such reports will contain an explanation of



the matter reviewed, a summary of the evidence considered, a list of participants involved in the review and any recommendations made.

- 23.5 The Healthier Communities Select Committee may request a response from the NHS body to whom it has made a report, and the NHS body is under a duty to provide one within 28 days of the request.
- 23.6 NHS bodies must, subject to certain exceptions, consult the Healthier Communities Select Committee about any proposal for substantial variation in, or substantial development of, a service in the area, and where consulted the Select Committee is entitled to comment, and in appropriate cases the Select Committee may make referrals to the Secretary of State under the 2013 Regulations.
- 23.7 The Healthier Communities Select Committee may require a local NHS body to provide such information about the planning, provision and operation of health services in the Borough as the Select Committee reasonably requires and the NHS body is under a duty to provide it subject to certain exceptions set out in regulation.
- 23.8 Subject to any directions made by the Secretary of State, the Healthier Communities Select Committee may require an officer of a local NHS body to attend before it to answer questions, and it shall be the duty of such an officer to comply, provided reasonable notice of the requirement to attend has been given.
- 23.9 The Council may from time to time appoint joint committees to discharge the overview and scrutiny function in relation to local health bodies and may delegate relevant overview and scrutiny functions to another authority's overview and scrutiny committee where it considers that that other authority would be better placed to undertake the function, and that other Council agrees to do so.

## **24. Task and Finish Groups**

- 24.1 The conduct of meetings at task and finish groups shall be a matter for the Chair of the task and finish group, subject to:
- any legal requirements; and
  - provisions and principles set out in paragraph E 21(c) which shall also apply to the conduct of task and finish groups
- 24.2 When the task and finish group completes an investigation it shall produce a report detailing its findings and any recommendations which it shall refer to Mayor & Cabinet and/or an appropriate Council decision making body for consideration.
- 24.3 The Mayor & Cabinet and/or other appropriate Council decision making body, shall refer their response back to the full Overview & Scrutiny Committee

## **Appendix 2**

### **Protocol for Member/Officer Relations**

## **PROTOCOL FOR MEMBER & OFFICER RELATIONS**

### **1. Introduction**

- 1.1 An effective working relationship between members and staff is critical to the successful operation of Council business. Excellent working relationships are required to deliver best value services to local citizens and to maintain confidence in local government in Lewisham. This protocol is designed to help members and staff to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other

### **2. Respective roles**

- 2.1 Both members and Council staff are public servants. They are indispensable to each other. But their responsibilities are distinct. All members (including the Mayor) are responsible to the electorate and serve only so long as their term of office lasts. Staff are responsible to the Council as a corporate body, and not to any single member including the Mayor. Their job is to give advice to all members (including the Mayor) and to the authority, and to carry out the authority's work under the direction and control of the Council, its Executive and relevant committees.
- 2.2 Respect between members and staff, both personally and for their different roles is essential to good local government.

### **3. Members' roles**

- 3.1 Members have five main areas of responsibility:
- (a) deciding on overall Council policy and giving the authority political leadership.
  - (b) making decisions within overall council policy (for example on planning applications, or on the establishment or closure of a school).
  - (c) monitoring and reviewing performance in implementing policy and delivering services.
  - (d) representing the area and the Council externally.
  - (e) acting as advocates on behalf of constituents.
- 3.2 Depending on whether they are members of the executive or not, and on the committees to which they are appointed, members may exercise only some of these roles. However, it is not the role of members to involve themselves in the day-to-day management of the Council's services.
- 3.3 The Mayor, members of the Executive and committee chairs and vice chairs have additional responsibilities. Because of this their relationships with employees may be different from and more complex than those of councillors without those responsibilities. This is recognised in the expectations they are entitled to have. However, such members must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature, or to do anything which will put them in difficulty in the event of a change in the composition of the authority.
- 3.4 As individual members, all councillors and the Mayor have the same rights and duties in their relationship with staff and should be treated equally. Members of overview and scrutiny committees are entitled to officer advice and support in the performance of their roles just as Executive members are entitled to officer advice and support in the performance of theirs.

#### **4. Officers' roles**

- 4.1 The role of officers is to give advice and information to members to inform their decision making and to implement the policies and decisions of the Council. In giving their advice, it is the responsibility of the officer to present their professional views and recommendations. Members must not pressurise an officer to make a recommendation contrary to their professional view or use undue pressure to seek to persuade an officer to withdraw a report.
- 4.2 In discharging their role as an officer of the authority, staff must act in a politically neutral way.
- 4.3 Certain officers, including the head of paid service, Monitoring Officer, chief finance officer, the director of children's services, the director of adult services, the director of public health & scrutiny officer have legal responsibilities over and above their obligations to the authority and members of it. Members must respect these obligations and must not obstruct them in the discharge of these responsibilities or victimise them for discharging these legal duties.

#### **5. Expectations**

##### **5.1 Members can expect from officers:**

- (a) a commitment to the council as a whole and not only to any part of it, or to any political group.
- (b) Respect and courtesy.
- (c) The highest standards of integrity.
- (d) A working partnership.
- (e) An understanding of and support for respective roles, workloads and pressures.
- (f) Timely responses to enquiries and complaints.
- (g) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers.
- (h) Regular up to date information that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions they hold.
- (i) Awareness of and sensitivity to the political environment.
- (j) Training and development in order to carry out their role effectively.
- (k) Appropriate confidentiality.
- (l) That they will not use their relationship with members to seek to advance their personal interests or to influence decisions improperly.
- (m) Support for the role of councillors as the local representatives of the authority within arrangements made by the council to do so.
- (n) Compliance with the Employee Code of Conduct at all times.

##### **5.2 Officers can expect from members:**

- (a) Respect and courtesy.
- (b) The highest standards of integrity.
- (c) A working partnership.
- (d) An understanding of and support for respective roles, workloads and pressures.
- (e) Political leadership.
- (f) Not to be subject to bullying or to be put under pressure. Members must have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between members and

officers and the potential vulnerability of officers, particularly at junior levels.

- (g) That members will not use their position or relationship with officers to seek to advance their personal interests or those of others or to influence decisions improperly.
- (h) Compliance with the Member Code of Conduct at all times.

## **6. Close personal relationships**

- 6.1 Both members and officers should take care not to give the impression that their distinct roles have become blurred in some way. Maintaining confidence in the separation of these roles necessarily imposes limitations on behaviour. Close personal relationships between members and officers can confuse their separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular member or officer may secure advantageous treatment.

## **7. Political Groups**

- 7.1 The operation of political groups is an integral feature of local government. They have an important part to play in the development of policy and the political management of the authority. It is in the interest of the authority to support the effective operation of political groups. However, doing so can create particular pitfalls in terms of the impartiality of officers. This protocol sets out guidance to minimise the risk of that impartiality being compromised.
- 7.2 National Conditions of Service for Executive Directors and JNC officers provide that they shall not be required to advise any political group of the Council, either as to the work of the Group or as to the work of the Council, neither shall they be required to attend any meetings of any political groups. This should be without prejudice to any arrangements to the contrary which may be made in agreement with any officer which includes adequate safeguards to preserve the political neutrality of the officer in relation to the affairs of the Council.
- 7.3 The NJC for Local Government Services National Agreement on Pay and Conditions of Service provides that codes of practice for the official conduct and obligations of employees shall be locally determined. The Council applies a similar provision to those applying to JNC officers, without the exception contained in the last sentence.
- 7.4 Sometimes, officers may be asked to write reports for a political group. Normally it should only be an Executive Director who is asked to do so. Occasionally, subject to the direction of the Executive Director, other senior employees in their Directorate may be asked to write reports for a political group. Neither the Executive Director nor any other officer can be compelled to write reports for (or attend) a meeting of a party-political group. Sometimes it will be appropriate for a senior officer to write a report for a political group where they represent an early stage in the decision-making process. A report relating to the choices to be made in the budget process might be an example. However, where a senior officer does write such a report for a political group, it should be written as if it was being prepared for the full Council, Executive or the relevant committee. Reports on matters of policy or principle, prior to decisions do not need to be so formally drafted.

7.5 The principles set out in paragraph 7.4 do not obviate the need for there to be close and regular liaison on matters affecting the Council between the Mayor, members of the Executive and committee chairs as appropriate on the one hand and Executive Directors and senior officers on the other.

7.6 Members and officers must always remember that decisions can only be taken in accordance with the Council's Constitution and that decisions taken by party political groups are not Council decisions. They must only refer matters for decision in accordance with that process.

## **8. Reports to Council, Executive or Committee**

8.1 Under the Constitution adopted by the Council to comply with the Local Government Act 2000, decisions may be made by the Mayor or the Executive or members of it to whom the Mayor has delegated decision making power. In other cases, they may also be taken by the full Council or committees or sub committees. The Council's Constitution provides that member decisions may only be taken on the basis of a written report containing all relevant considerations. Reports to the Mayor, Executive (whether collectively or decision makers drawn from it,) or to a committee or sub committee should be written by the Executive Director or another officer authorised by him or her.

8.2 It is likely that a sensitive report would be discussed with the Mayor, lead member or committee chair and that member may make suggestions for inclusion in the report. However, the report is the officer's and even if the member is unhappy with its contents, it should not be amended by that member, save with the express approval of the Executive Director. If the report of the Executive Director is thought by the member to be inappropriate, then exceptionally that member should write his or her own report in addition to the report submitted by the Executive Director.

8.3 Where an officer attends a political group, they must inform the Monitoring Officer who will advise all other groups that the officer has attended and the subject on which they have advised. If a report was prepared by the officer, they will supply a copy to the other political groups on request. Officers will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

## **9. Relationship between the Chair and Members of Committees and Officers**

9.1 The Chair and Members of Council Committees must give Officers the opportunity to present any report and give any advice they wish to present or give.

## **10. Relationship between the Chair and Members of the Overview & Scrutiny Committee and its Select Committees and Officers**

10.1 The Chair and members of the Council's Overview & Scrutiny Committee and its Select Committees must:

- (a) Seek the advice of the Monitoring Officer where they consider there is doubt about the lawfulness of a decision, or the Monitoring Officer or the s151 Officer where they consider a decision of the Mayor, or the Cabinet might be contrary to the Budget & Policy Framework.
- (b) When considering calling Officers to give evidence, liaise with the relevant Executive Director as to the most appropriate Officer to attend.
- (c) When asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions.

Officers may be asked to give a professional opinion, but Officers must not be asked questions relating to political views.

- (d) Where they consider it appropriate, ask Officers to explain and justify advice given to executive members prior to decisions being undertaken and justify decisions they themselves have taken under the Council's Constitution.
- (e) Not question Officers in such a way as to be in breach of the Council's HR policies nor deal with matters which are of a personal or disciplinary nature.
- (f) At all times respect the political impartiality of the Officers.

#### 10.2 Officers must:

- (a) Maintain political impartiality at all times when commenting on the Cabinet's/Council's policies and actions.
- (b) Be prepared to explain and justify advice given to Councillors of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegations.
- (c) Ensure that appropriate Officers appear before the relevant panel.

### 11. If things go wrong

11.1 From time to time the relationship may break down or become strained. In such cases, it will always be preferable to resolve matters informally.

#### **Procedure for Mayor and Councillors**

11.2 In the event that the Mayor or Councillor is dissatisfied with the conduct, behaviour or performance of an Officer then they should raise the matter with the appropriate Executive Director. Where the matter concerns an Executive Director, it should be raised with the Chief Executive. Where the matter concerns the Chief Executive, it should be raised with the Mayor. The Mayor may raise concerns about the Chief Executive with the Monitoring Officer.

11.3 If the Mayor or any Councillor is concerned about the way a service or part of it is performing as opposed to the conduct of a specific Officer, and if the concerns cannot be resolved through discussion with the manager of the service, then this should be raised with the Chief Executive.

#### **Procedure for Officers**

11.4 If an Officer wishes to raise a concern about the behaviour of the Mayor or a Councillor, they can either escalate it to their line manager, Executive Director or to the Council's Monitoring Officer.

11.5 Having been notified of a concern in this way, the line manager, Executive Director or Monitoring Officer will take appropriate action, including approaching the person concerned and raising with the Group Leader and/or Whip or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.

11.6 Group Leaders and Whips should promote a positive atmosphere of trust, respect and understanding and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature, a Group Leader and/or Whip will actively consider the matter and seek to achieve a satisfactory outcome, reporting that outcome to the Officer who reported the issue.

## **12. Advice on the application of the Protocol**

12.1 Advice on the application of this Protocol should be sought from either the Chief Executive or the Monitoring Officer.

## **13. Example Scenarios**

What if ...

The chief whip of the majority group of the Council asks a junior officer to attend a meeting of her political group to brief members about the Council's draft budget.

Response:

The request should be directed to the Chief Executive or s.151 officer to decide. Briefings can be provided but not as an alternative to public debate or decision and cannot be party political. When officers attend a group meeting, the difference between the Group and the Council must be respected and political discussion should not take place with the officer present. The offer should be extended to all political groups.

What if ...

A team manager facing disciplinary action contacts members he knows to complain about his perception of unfair treatment and to see if they can influence the outcome of his case.

Response:

A member should politely refuse assistance and refer the officer to his union. The member should report the approach to HR. Except at chief officer level, all employment matters are exclusively for officers to determine. It is a disciplinary offence to lobby members for support.

What if ...

A member overhears two officers having a discussion about a political party's policies in the office. The member asks the officers how they are going to vote in the upcoming election. They both confirm that over their dead bodies would they vote for the member's party.

Response:

Discussions about party politics should not take place in the office, especially if a member may overhear. A member should not ask any officer about their political views or intentions. The officers must remain politically neutral and not express their voting intentions. A polite no is appropriate.



## **Appendix 3**

### **Employee Code of Conduct**

# THE EMPLOYEE CODE OF CONDUCT

## 1. Introduction

- 1.1 Officers of the Council provide services to the residents of Lewisham. We have an elected Mayor and Councillors who set the strategic direction and the policies of the Council. It is the responsibility of officers to deliver those policies, manage day-to-day operations, provide expert advice, and deliver public services within the Council's allocated budget, ensuring that the Council's decisions are carried out effectively.
- 1.2 Every officer is expected to behave in a highly professional manner and to offer the highest standards of service to the public. Officers must promote and maintain public confidence and trust in the work of the Council.

## 2. Definitions

- 2.1 For the purposes of this Code of Conduct:

A “**councillor**” means a member or co-opted member of the Council or a directly elected mayor.

A “**co-opted member**” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the Council but who

- (a) is a member of any committee or sub-committee of the Council, or;
- (b) is a member of, and represents the Council on, any joint committee or joint subcommittee of the Council; and

who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

## 3. Purpose of the Code of Conduct

- 3.1 The purpose of this Code of Conduct is to set out the standard of behaviour expected of all officers in carrying out their duties for the Council, including the ways in which they interact with elected councillors and senior management. The fundamental aim of this Code of Conduct is to create and maintain public confidence in the Council. It is designed to promote public confidence in the actions of officer and encourages officers not only to avoid actual impropriety, but to avoid suspicion or appearance of improper conduct.
- 3.2 If officers are in any doubt about the application of this Code of Conduct, they should seek advice from their line manager or from HR.

## 4. General principles of officer conduct

- 4.1 Everyone in public office at all levels, all who serve the public or deliver public services (including officers) should uphold the Seven Principles of Public Life, also known as the Nolan Principles (see **Appendix A**).
- 4.2 Building on these principles, the following general principles have been developed for officers.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the Council.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I am politically neutral and unbiased.
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with the Council's requirements and in the public interest.

## **5. Our principles of conduct in detail**

5.1 This section sets out your obligations in detail, which are the minimum standards of conduct required of you as an officer of the Council. Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **Respect**

**As an officer of the council:**

- a. I provide the highest possible standard of service to the public, and to the Council as a whole**
- b. I treat councillors and members of the public with respect.**
- c. I treat Council employees, employees and representatives of partner organisations and those volunteering for the Council with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Rude and offensive behaviour lowers the public's expectations and confidence in the Council and its officers.

The public have a right to the services that the Council provides. Officers should always perform their duties to the highest standard and treat members of the public politely and with dignity and respect, taking into account their individual needs.

If you provide personal/caring services to vulnerable people within the community, you must always act in a professional manner and treat service users with dignity and respect.

In return, you have a right to expect respectful behaviour from others. If you are subjected to abusive, intimidatory or threatening behaviour while performing your duties you are entitled to stop any conversation or interaction and report them to your line manager or the Monitoring Officer.

## **Bullying, harassment and discrimination**

### **As an officer of the council:**

- a. I do not bully any person.**
- b. I do not harass any person.**
- c. I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Officers have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

Officers must promote equality and diversity by not discriminating unlawfully against any person and by treating them with respect, regardless of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. All forms of discrimination, including bullying and harassment are unacceptable and contravene the Council's Respect and Dignity at Work Policy. Any breach of this policy will be treated seriously and will be dealt with under the Council's Disciplinary Policy.

## **Impartiality and Political Neutrality**

### **As an officer of the Council:**

- a. I am honest, impartial and independent at work regardless of my political views.**
- b. I am politically neutral and unbiased in the performance of my duties.**
- c. I respect the function of councillors regardless of the party they represent.**
- d. I act in accordance with the Council's Protocol on Member and Officer Relations**

Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). You must ensure that the individual rights of all councillors are respected and must not allow your own personal or political opinions to interfere with your work.

You must not do anything which will compromise or is likely to compromise the impartiality of those who work for, or on behalf of, the Council. You should not be coerced or persuaded by others to act in a way that would undermine your neutrality.

Some officers are in politically restricted posts and are prevented by law from taking part in certain political activities outside their work. The political activities which are restricted for these officers covers the following:

- Standing as a candidate for election to the House of Commons, European Parliament or a local authority (other than a Parish Council).
- Holding office in a political party at any level, except in limited roles concerned only with the internal membership of the party.
- Canvassing at an election
- Speaking in public or publishing any written or artistic work which appears to be intended to affect public support for a political party.

If you are in any doubt about whether you hold a politically restricted post or whether any activity is political activity and covered by these rules, then advice should be sought from your Executive Director, HR or the Monitoring Officer.

An effective working relationship based on mutual respect between officers and councillors is essential to the delivery of efficient and high-quality services to the community. However, close personal familiarity between officers and individual councillors can damage the relationship and prove embarrassing to other councillors and employees and should therefore be avoided. Officers must not seek to involve councillors in personal matters which relate to any aspect of their employment with the Council e.g., pay and grading, grievances etc.

## **Decision making and use of public funds**

### **As an officer of the Council:**

- a. I will give reasons for the decisions I make in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council**
- b. I will use public funds entrusted to me in a responsible and lawful manner, ensuring value for money and in accordance with the Council's constitution**

Decisions can be legally challenged if they are unreasonable. When considering any decision, you must have regard to any professional advice you have been offered. You must also give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by the Council. Decisions must be taken in accordance with the terms of the Council's constitution and its Standing Orders.

You must ensure that you use any public funds entrusted to you in a responsible and lawful manner, ensuring value for money to the local community and avoiding

legal challenge to the Council.

## **Confidentiality and access to information**

**As an officer of the council:**

- a. I do not disclose information:**
  - i. given to me in confidence by anyone**
  - ii. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:**
    - 1. I have received the consent of a person authorised to give it;**
    - 2. I am required by law to do so;**
    - 3. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
    - 4. the disclosure is:**
      - a. reasonable and in the public interest; and**
      - b. made in good faith and in compliance with the reasonable requirements of the Council; and**
      - c. I have consulted the Monitoring Officer prior to its release.**
- b. I do not improperly use knowledge gained solely as a result of my role as an officer of the Council for the advancement of myself or anyone known to me or to disadvantage or discredit the Council.**
- c. I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations. If you are in doubt, advice should be obtained from your line manager or the HR Advisory Service.

You may only talk to the media or otherwise make public statements on behalf of the Council or your directorate if you have been authorised by your Executive Director to do so. Generally, if you are contacted by the press, you should refer the matter to the Council's Press Office who will deal with it as appropriate.

## **Disrepute**

**As an officer of the Council:**

- a. I do not do anything in my professional or private capacity that could bring my role or the Council into disrepute.**
- b. I will disclose any criminal convictions**

As an officer of the Council, you should be aware that your actions might have an adverse impact on you and/or the Council and may lower the public's confidence in your or the Council's ability to discharge your/its functions. For example,

behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

You must disclose to the Council such details as it may require of any criminal conviction, caution or bindover that are received during your employment with the Council. Failure to do so, for whatever reason, may be regarded as gross misconduct under the Council's Disciplinary Policy which could lead to dismissal from the Council's service.

### **Use of position**

**As an officer of the Council, I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as an officer of the Council provides you with certain opportunities, responsibilities, and privileges, and you make choices and decisions all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

### **Use of the Council's resources and facilities**

**As officer of the Council:**

- a. I do not misuse council resources;**
- b. I will, when using the resources of the Council or authorising their use by others act in accordance with the Council's requirements.**

You must use any equipment or facilities provided by the Council for use in the course of your employment in a proper and responsible manner. You must not make personal use of the Council's property or facilities unless properly authorised to do so.

You must comply with the Council's Acceptable Use of ICT Policy and associated guides at all times. Failure to follow the Acceptable Use of ICT Policy will lead to disciplinary action under the Council's Disciplinary Policy.

### **Complying with the Code of Conduct**

**As an officer of the Council, I will comply with this Code of Conduct and the Council's policies and procedures.**

It is extremely important for you as an officer to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Council or its governance.

It is your responsibility to comply with this Code and all of the Council's policies and procedures as amended from time to time. Any breaches will be treated seriously and will be dealt with under the Council's Disciplinary Policy. If in any doubt employees should seek advice from their line manager or from HR.

## Interests

### As an officer of the Council:

- d. I register and disclose my interests**
- e. I will act in accordance with the Council's requirements in relation to outside and additional work**
- f. I will recruit others based on merit**

You must be able to demonstrate, should any questions arise, that your judgement and actions at work are objective and impartial and not affected or influenced by personal considerations arising from your commitments and/or activities outside work. You should not put yourself in a position where potential conflicts of interest may arise, or be perceived to arise, between your private interests and your responsibilities as an officer of the Council.

You must inform your line manager of:

- Any interests which conflict with the impartial performance of your duties or which could put you under suspicion of improper behaviour. These interests may be financial, personal or social interests and may be advantageous or have a detrimental effect on you. A non-exhaustive list of examples includes where you experience threats or pressure from others to act in a particular way in your official capacity; acting as a school governor within schools maintained by the Council; involvement with an organisation receiving grant aid from the Council; membership of an NHS Trust Board; involvement with an organisation or pressure group which may seek to influence the Council's policies. Membership of a trade union is exempted from this requirement.
- Any pecuniary interests (whether direct or indirect) in any contract which has been, or is proposed to be, entered into by the Council. Orders and contracts must be awarded on merit, and no special favour should be shown to businesses in which you or anyone associated with you (e.g. friends, partners, relatives) have a financial interest.
- Any relationship you have with the Council's contractors, potential contractors or other external service providers.
- Any membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about its rules or membership or conduct, for example freemasons.
- Any decision on allocation of Council services or resources from which you, your friends or family might benefit (e.g. allocation of Council housing or assessment of housing benefit).

You may have dealings with the Council on a personal level, for example as a Council taxpayer, tenant or applicant for planning permission. You should never seek or accept preferential treatment in those dealings because of your position with the Council or put yourself in a position that could bring the Council into disrepute, through for example non-declaration or non-payment of monies owing to the Council e.g. Council tax.

Officers graded at SMG1 and above must register any financial interests in the Council's register. Other employees below SMG1 who hold positions which are considered by the Chief Executive or the Monitoring Officer to be particularly at risk, such as commissioning, procurement and contract monitoring officers will also



be required to register their financial interests. You must register your financial interest or subsequent changes by writing to the Monitoring Officer within 28 days of your appointment or change in your personal position of:

- any business carried on by you;
- the name of any firm in which you are a partner and the name of any company for which you are a remunerated director;
- the name of any corporate body which has a place of business or land in the Council's area where you have a beneficial interest in the class of securities of that body which exceeds the value of £25,000 or one hundredth of the total issued share capital of that body;
- a description of any contract for goods, services or works made between the Council and you, a firm in which you are a partner, a company of which you are a director or body of the description in paragraph (c) above;
- the address or other description (sufficient to identify the location) of any land in which he/she has a beneficial interest and which is in the area of the authority;
- the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he/she is a partner, a company of which he/she is a remunerated director, or a body of the description in sub-paragraph (d).

Any additional work (whether paid or unpaid) you wish to undertake must not conflict with the Council's interests, affect your ability to undertake Council work, breach employment legislation or in any way weaken public confidence in the Council. You must obtain written consent from your Executive Director (or in the case of chief officers, the Chief Executive) in advance if you wish to engage in other business, take up additional employment or work outside of the Council. Where you have been given approval to undertake additional or outside work you must not undertake such work during your Council working hours, on Council premises or using Council facilities (e.g. computing equipment, telephones, vehicles and photocopying). You must not portray yourself as an employee or agent of the Council when undertaking such additional or outside work.

The Council recruits on merit and requires that appointments are made without bias and on the basis of clear assessment criteria. It is unlawful for you to make an appointment other than on the basis of merit and on the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, you must not be involved in an appointment where you are related to an applicant or have a personal relationship outside work with them. Similarly, you must not be involved in any decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.

### **Gifts and hospitality**

**As an officer of the Council, I do not accept gifts or hospitality for work done in my official capacity.**

It is a criminal offence for any officer to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour to any person in their official capacity. You must treat with caution any offer, gift, favour or hospitality

offered to you. Gifts or hospitality shall include any opportunity to acquire goods or services at a price or on terms at which they are not readily available to the public.

You must comply with the Council's Code of Practice for Receipt of Gifts and Hospitality.

Where an outside organisation wishes to sponsor or is sought to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. You must take particular care when dealing with contractors or potential contractors. Where the Council wishes to sponsor an event or service, neither an officer nor any relative or friend must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

## **Appendix A – The Seven Principles of Public Life**

The principles are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.