# London Borough of Lewisham

# Constitution

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# PART I

# SUMMARY

# PART I - SUMMARY

**This document summarises the Constitution of the London Borough of Lewisham under Section 9P Local Government Act 2000**

## 1 AIMS AND PURPOSES

This constitution aims to

i) lead to effective and efficient Council decision making

ii) make it clear to local people who is making decisions on their behalf

iii) give Councillors and local people greater opportunity to engage directly

iv) set out clearly the arrangements for local political governance

v) separate decision making from scrutiny of those decisions to create greater accountability .

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

## 2 THE COUNCIL

There are 54 Councillors who are elected to represent areas of the London Borough of Lewisham called wards. The Council also has a Mayor, who is elected by voters across the whole of the borough. Together they make up one body, the Council of the London Borough of Lewisham. In this Constitution, the expression 'Member' includes the Mayor and councillors.

## 3 COUNCILLORS

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

## 4 THE MAYOR

The Mayor is elected to lead the Council. He/she serves for a period of four years. He/she must act in the interests of the borough as a whole. He/she appoints the political Executive (the Executive) and is responsible for taking most of the main decisions, and for giving the power to others to do so.

## 5 THE SPEAKER

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

## 6 ETHICS

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

## 7 ALLOWANCES AND PAY

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

The Council has also adopted a pay policy in relation to the remuneration of its employees. It reviews this annually and pays in accordance with it.

## 8 COUNCIL'S POLITICAL MANAGEMENT STRUCTURE

i) <u>The Council</u>

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

ii) <u>The Mayor</u>

The Mayor makes proposals to the Council about its main policies and budget. Once they are agreed he/she is responsible for putting those policies agreed by the Council into effect. Within that framework, the Mayor is responsible for all decisions which are not the responsibility of the Council or any of its committees by law.

iii) <u>The Executive</u>

The Mayor appoints an Executive including him/herself and between 2 and 9 other councillors. The Executive is referred to as the Mayor and Cabinet. The Mayor may delegate executive decision making to the Executive.

iv) Overview and scrutiny committees

The Council's Overview and Scrutiny Committee helps the Executive to develop policies and budget. It also holds the Executive to account by scrutinising their decisions, examining performance and asking questions of those who make decisions and provide services. There will be one overarching Overview and Scrutiny Committee which will appoint at least three standing sub-committees, known as select committees, and a Business Panel to co-ordinate its business and operate call in on its behalf. It will also appoint an Education Business Panel to consider call in in relation to education matters. The Council will ensure that among its overview and scrutiny sub-committees, one will scrutinise health provision and another will scrutinise crime and disorder matters in the borough. The Overview and Scrutiny Committee will appoint at least two other select committees annually, and may appoint joint select committees with other authorities from time to time. Any matter which by law is defined as an Overview and Scrutiny function, which is not delegated elsewhere by this Constitution falls within the remit of the Overview and Scrutiny Committee.

v) Committees

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

vi) Health and Wellbeing Board

The Council has established a Health and Wellbeing Board which will produce an analysis and strategy to meet health and social care needs in the Borough.

vii) Standards Committee

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

viii) Other committees

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

ix) Working Parties

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

## 9 DELEGATING DECISIONS

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

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

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

## 10 PRINCIPLES OF DECISION MAKING

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

(a) the decision will be made following an evaluation of options as appropriate;

(b) the decision maker will take professional advice (including financial and legal advice where the decision may have legal and/or financial consequences);

(c) the decision will be taken following a consideration of all relevant matters and disregarding irrelevancies;

(d) reasons for the decision will be recorded as will details of options considered with reasons for their rejection;

(e) action taken will be proportionate to the result to be achieved;

(f) respect for human rights will be balanced with the Council's duty to the wider community;

(g) a presumption in favour of openness, unless there are compelling lawful reasons preventing the consideration of matters in public;

(h) consultation appropriate to the matter under consideration;

(i) clarity of aims and desired outcomes;

(j) the highest standards of ethical conduct, avoiding actual, potential and perceived conflicts of interest.

## 11 MINIMISING CONFLICT

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

## 12 ACCESS TO COUNCIL MEETINGS AND DOCUMENTS

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

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

There are special provisions which apply when urgent matters arise.

## 13 FINANCE, CONTRACTS AND LEGAL MATTERS

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

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

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

## 14 GENERAL RULES OF PROCEDURE

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

## 15 STAFF

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

The following Council employees have special statutory responsibilities:-

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

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

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

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

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

Scrutiny Officer (Director of Corporate Policy & Governance) - who is responsible for promoting the role of overview and scrutiny and providing support and guidance to members and officers in relation to the Council's overview and scrutiny functions.

Director of Public Health – who is responsible for producing an annual report on the health of people in the area

Data Protection Officer – who is responsible for ensuring compliance with data protection legislation

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

Council employees are bound to comply with an Employee Code of Conduct. It is attached to the Constitution.

## 16 PUBLICATION OF CONSTITUTION

Copies of the constitution are available for public inspection at the Council's main offices, Catford SE6 4RU. The Mayor and all members of the Council will be given an electronic copy on their first declaration of acceptance of office, and given a copy of any amendments as soon as practicable after they have been agreed.

## 17 REVIEW OF THE CONSTITUTION

The Council will monitor and review the constitution periodically.

# PART II

# ARTICLES

**PART II**

**THE ARTICLES OF THE CONSTITUTION OF THE LONDON BOROUGH OF LEWISHAM**

This document and its appendices make up the constitution of the London Borough of Lewisham (the Council) under Section 9P Local Government Act 2000 and contains a statement of the Council's executive arrangements for the purposes of Section 29 of that Act. It may be amended from time to time in accordance with the law and the provisions contained in this constitution for so doing.

## ARTICLE 1
## AIMS AND PURPOSES

This constitution aims to:-

i) lead to effective and efficient Council decision making

ii) make it clear to local people who is making decisions on their behalf

iii) give Councillors and local people greater opportunity to engage directly

iv) set out clearly the arrangements for local political governance

v) separate decision making from scrutiny of those decisions to create greater accountability.

and will be interpreted to give effect to those aims.

## ARTICLE 2
## COUNCILLORS AND ELECTIONS

### 2.1 The Council

There are 54 councillors who are elected to represent areas of the London Borough of Lewisham called wards. The Council also has a Mayor, who is elected by voters across the whole of the borough. Together they make up one body, the Council of the London Borough of Lewisham. In this Constitution, the term 'members' refers to the Mayor and councillors.

### 2.2 Eligibility to stand for election as a Councillor

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

**2.3 Eligibility to stand for election as Mayor**

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

**2.4 Timing of elections**

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

**2.5 The role of a councillor**

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

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

**2.6 Members' rights and duties**

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

Members will observe the Council's Code of Conduct in force from time to time. The Member Code of Conduct appears at Part V of this Constitution.

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

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

**2.7 Members' remuneration**

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

## ARTICLE 3
## CITIZENS AND THE COUNCIL

### 3.1 Citizens' rights in relation to Council business

(a) To vote in local elections for their representatives as councillors and Mayor

(b) To be able to find out from the Council's Key Decision Plan which key executive decisions are likely to be taken by the Council and when

(c) To have access to information, agendas and papers relating to Council and Executive meetings and decisions in accordance with the law and this constitution

(d) To attend meetings of the Council and Executive in accordance with the law and this constitution

(e) To see records of decisions taken by the Council or its Executive and to be given reasons for those decisions, in accordance with the law and the constitution

(f) To examine the Council's accounts and to make their views known to the Council's auditor

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

For example, citizens may respond to consultation through the forward planning process, ask questions at Council Question Time, contribute to investigations by overview and scrutiny panels, participate in their local ward assembly, participate in the Positive Ageing Council and take up one of the many statutory roles, such as becoming a school governor.

### 3.3 Citizens' complaints

Citizens have the right to complain to:-

(a) The Council itself under its complaints and whistleblowing schemes

(b) The Local Government Ombudsman, after using the Council's own complaints scheme

(c) The Monitoring Officer if the complaint relates to an allegation that the Member Code of Conduct has been breached.

### 3.4 Citizens' responsibilities

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

## ARTICLE 4
## THE COUNCIL

### 4.1 Full Council

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

### 4.2 Decisions reserved to Council

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

(a) the adoption (with or without modification) of the following plans and strategies, which will make up the Council's policy framework:-

Children and Young People's Plan [1]
Crime and Disorder Reduction Strategy [2]
Youth Justice Plan [3]
Local Transport Plan[4]
Development Plan documents, including plans and alterations that together make up the development plan[5]
Statement of Licensing Policy (alcohol & entertainment)[6]
Statement of Licensing Policy (Gambling)[7]

(b) the agreement of any plan or strategy which requires the approval of a Minister of the Crown or a Secretary of State prior to its submission for such approval, whether the plan or strategy is submitted in draft form or not;

(c) the approval of proposals for public consultation in connection with the production, alteration or withdrawal of development plan documents ;

(d) the approval of a development plan document for the purpose of its submission to the Secretary of State for independent examination under Section 20 Planning and Compulsory Purchase Act 2004.

(e) Decisions to prepare joint local development document(s) or to establish or to agree that a joint committee should act as the local planning authority under Section 28 to 31 Planning and Compulsory Purchase Act 2004 and the making of any request to

the Secretary of State to revoke an order constituting a joint committee as the local planning authority

(f) agreeing the Council's budget - where the term budget includes the budget requirement as set out in the Local Government Finance Act 1992 and the housing revenue account as defined in Part IV Local Government and Housing Act 1989, including all its calculations and components, whether original or substitute, such as the budgetary allocation to different services and projects, proposed taxation levels, contingency funds (including any adjustment to contingency funds or reserves) and any plan or strategy for the control of the Council's borrowing or capital expenditure, investments or for determining the Council's minimum revenue provision and the issuing of any precept. Virements will be permitted in accordance with the Council's procedure rules at Part IV. The setting of virement limits will be for the Council to decide;

(g) adopting the Council's Constitution and any subsequent changes to it;

(h) adopting the Council's Member Code of Conduct and any changes to it;

(i) making and amending the Council's standing orders;

(j) taking decisions in relation to functions which are the responsibility of the Executive which are not in accordance with the policy framework or budget agreed by the Council;

(k) taking decisions in respect of functions which are not the responsibility of the executive and which have not been delegated to committees, sub-committees or officers;

(l) the delegation of functions to committees;

(m) the setting of and any amendments to the terms of reference for committees, including a standards committee, overview and scrutiny committee and all other committees which the Council lawfully considers necessary for the proper exercise of its functions;

(n) making appointments to committees and making any amendments to their composition;

(o) the promotion or opposition of a local Bill in Parliament or an Order under the Transport and Works Act 1992;

(p) making, altering and revoking byelaws;

(q) power to make appointments to outside bodies save where that power lies with the Mayor;

(r) conferring the freedom of the borough;

(s) changing the name of the borough;

(t) approval and/or amendment of a scheme and the amounts of members allowances under prevailing legislation;

(u) authorising applications to the Secretary of State for the transfer of housing land, or consent to disposal under Section 32 or 43 Housing Act 1985;

(v) the appointment (and dismissal) of the Head of Paid Service;

(w) approving the Statement of Accounts;

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

(y) decisions in relation to a community governance review under Section 79 Local Government and Public Involvement in Health Act 2007 pertaining to the whole or part of the Council's area for the purposes of making one or more recommendations (including but not limited to recommendations as to what changes, if any should be made to electoral arrangements);

(z) making an order to give effect to recommendations of a community governance review or to make a change in the governance arrangements under the 2007 Act

(aa) Approval of the Council's pay policy statement under Section 38 Localism Act 2011;

(bb) such other matters as are reserved to the Council from time to time, whether by the Constitution or by law,

1 The Children and Young People' Plan (England) Regulations 2005 (as amended)

2. Section 6 Crime and Disorder Act 1998

3 Section 40 Crime and Disorder Act 1998

4 Section 108(3) Transport Act 2000

5 Section 27 Town and Country Planning Act 1990 and Section 15 Planning and Compulsory Purchase Act 2004.

6. Section 5 Licensing Act 2003

7 Section 349 Gambling Act 2005

## 4.3 Council meetings

In every year in which there is no ordinary election of councillors, the Council will hold an Annual General Meeting in March, April or May. . In the year in which there is an ordinary election of local councillors, the Annual General Meeting will be within 21 days of the retirement of councillors. There will also be a schedule of ordinary Council meetings to conduct programmed business throughout the year. In addition, extra meetings of the Council may be called to deal with issues as they arise. The business to be conducted at these meetings, their format and the way in which they are run may differ according to the nature of the business to be dealt with at the meeting. More detail appears in the Council's Procedure Rules at Part IV

**4.4 Responsibility for functions**

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

## ARTICLE 5
## CHAIRING THE COUNCIL

**5.1 The Speaker and Deputy Speaker**

The Council will appoint a Chairman, who will be known as the Speaker and a Vice-Chairman, known as the Deputy Speaker. They will be appointed annually at the Council's Annual General Meeting. Neither may be a member of the Council's Executive, nor chair the Council's main Overview and Scrutiny Committee or Business Panels.

**5.2 The role of the Speaker**

The Speaker, and in his/her absence the Deputy Speaker, will have the following roles:-

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

(b) To preside over meetings of the Council so that its business can be carried out efficiently and fairly with regard to the interests of the community and respect for the rights of the Mayor and Councillors;

(c) To promote public involvement in the Council's activities;

(d) To ensure that Council meetings are a forum for the debate of matters of public concern to the local community and the place at

which members of the Council who do not sit on the Executive are able to hold the Executive to account;

(e) To attend such civic and ceremonial functions as the Council considers appropriate.

## ARTICLE 6
## OVERVIEW AND SCRUTINY

### 6.1 One overview and scrutiny committee

Subject to the exception set out in this paragraph 6.1, the Council will appoint one overview and scrutiny committee consisting of all members of the Council who are not members of the Executive, provided that this composition complies with the political balance requirements of the Local Government and Housing Act 1989. If that is not possible, or if there is not unanimous agreement at the Annual General Meeting to such arrangements in any year, then the Council will decide on the composition of this committee so as to give the widest possible membership to the committee, but excluding members of the Executive.

Members appointed to the Executive may not sit on the Overview & Scrutiny Committee and any Member who is appointed by the Mayor to serve on the Executive for any part of a year may not thereafter serve as a member of Overview and Scrutiny Committee or its Sub Committees during that municipal year.

### 6.2 The role of the overview and scrutiny committee

The overview and scrutiny committee will be responsible for the overview and scrutiny of functions in accordance with the Local Government Act 2000 as amended but may not carry out any other functions unless relevant legislation is brought into effect to the contrary.

The law requires that the overview and scrutiny committee must have power to recommend that a decision which is the responsibility of the executive which has been made but not implemented be reconsidered by the decision-maker (or to arrange for the full Council to review such a decision). In this Constitution these powers are referred to as ‘call-in’. The operation of call in is dealt with under the heading ‘Conflict Resolution’ at Article 8.

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

Any matters which must by law be carried out by an overview and scrutiny committee, but are not delegated to a select committee, shall be the responsibility of the Overview and Scrutiny Committee.

**6.3 Overview and scrutiny arrangements**

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

The delegation of functions by the Overview and Scrutiny Committee to its Select Committees does not prevent exercise of those functions by the Overview and Scrutiny Committee.

Table 1.

| Column 1 | Column 2 |
|---|---|
| | |
| Public Accounts Select Committee | 6 – 10 members of the Council who are no members of the Executive, the number to be determined annually by the Council |
| | |
| Children & Young People Select Committee | 6 – 10 members of the Council (to be determined annually by the Council) who are not members of the Executive and 3 parent governor representatives elected in accordance with the Parent Governor Representatives (England) Regulations 2001 and 2 diocesan representatives appointed in accordance with Schedule A1 Local Government Act 2000 as amended. Parent and diocesan representatives have full voting rights on this select committee |
| | |
| Healthier Communities Select Committee | 6 – 10 members of the Council who are no members of the Executive, the number to be determined annually by the Council |
| | |
| Sustainable Development Select Committee | 6 – 10 members of the Council who are not members of the Executive, the number to be determined annually by the Council |
| | |
| Safer Stronger Communities Select Committee | 6 – 10 members of the Council who are not members of the Executive, |
| | |

| | |
|---|---|
| Housing Select Committee | 6 – 10 members of the Council who are not members of the Executive |
| | |
| Business Panel | Consisting only of the following members of the Council:-<br><br>• The chair and vice chair of the overview and scrutiny committee<br><br>• the chair of each of the select committees appointed by the overview and scrutiny committee<br><br>• 2 or the smallest number higher, of councillors required to ensure the political composition of the Council is reflected<br><br>NB Members of the Council's Executive may not sit on the Business Panel or any overview and scrutiny body |
| | |
| Education Business Panel | Consisting of those members of the Council appointed to the Business Panel plus:-<br><br>• 2 x Diocesan Representatives<br><br>• 3 governor representatives i.e. one each for primary schools, special schools and secondary schools<br><br>Parents and diocesan representatives have full voting rights on this Business Panel |

**6.4 The Local Petition Scheme**

The Council has an approved scheme for handling petitions. It appears at Appendix 2. The scheme provides for anyone who lives, works or studies in the borough to sign or organise a petition. The petition may be submitted to the Council either on paper or by means of e-petition. The scheme sets out the possible responses which are available to the Council.

**6.5 The role of the select committees and the Business Panels**

In relation to the activities within their remit, the select committees and the Business Panel will all carry out the roles set out in paragraph 6.6 (a) – (f) below.

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

**6.6 Roles common to select committees and the Business Panel**

The following roles are common to all select committees and Business Panel.

(a) *General functions*

- To review and scrutinise decisions made and actions taken in relation to executive and non-executive functions
- To make reports and recommendations to the Council or the executive, arising out of such review and scrutiny in relation to any executive or non-executive function
- To make reports or recommendations to the Council and/or Executive in relation to matters affecting the area or its residents
- The right to require the attendance of members and officers to answer questions includes a right to require a member to attend to answer questions on up and coming decisions
- To consider matters referred to it in accordance with the Council's Petition Scheme

(b) *Policy development*

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

interests of local people are enhanced by collaborative working in policy development wherever possible

(c) *Scrutiny*

- To scrutinise the decisions made by and the performance of the Executive and other committees and Council officers both in relation to individual decisions made and over time

- To scrutinise previous performance of the Council in relation to its policy objectives/performance targets and/or particular service areas

- To question members of the Executive or appropriate committees and executive directors personally about decisions

- To question members of the Executive or appropriate committees and executive directors in relation to previous performance whether generally in comparison with service plans and targets over time or in relation to particular initiatives which have been implemented

- To scrutinise the performance of other public bodies in the borough and to invite them to make reports to and/or address the select committee/Business Panel and local people about their activities and performance

- To question and gather evidence from any person outside the Council (with their consent where the law does not require them to attend).

- To make recommendations to the Executive or appropriate committee and/or Council arising from the outcome of the scrutiny process

(d) *Community representation*

- To promote and put into effect closer links between overview and scrutiny members and the local community

- To encourage and stimulate an enhanced community representative role for overview and scrutiny members including enhanced methods of consultation with local people

- To liaise with the Council's ward assemblies and/or Positive Ageing Council so that the local community might participate in the democratic process and where it considers it appropriate to

seek the views of the ward assemblies and/or Positive Ageing Council on matters that affect or are likely to affect the local areas, including accepting items for the agenda of the appropriate select committee from ward assemblies and the Positive Ageing Council.

- To keep the Council's local ward assemblies and Positive Ageing Council under review and to make recommendations to the Executive and/or Council as to how participation in the democratic process by local people can be enhanced.

- To receive petitions, deputations and representations from local people and other stakeholders about areas of concern within their overview and scrutiny remit and to refer them to the Executive, appropriate committee or officer for action, with a recommendation or report if the committee considers that necessary

- To consider any referral within their remit referred to it by a member under the Councillor Call for Action (Part IV E 10), and if they consider it appropriate to scrutinise decisions and/or actions taken in relation to that matter, and/or make recommendations/report to the Executive (for executive matters) or the Council (non-executive matters)

(e) *Finance*

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

(f) *Work programme*

- As far as possible to draw up a draft annual work programme in each municipal year for consideration by the Overview and Scrutiny Business Panel. Once approved by the Business Panel, the relevant select committee will implement the programme during that municipal year. Nothing in this arrangement inhibits the right of every member of a select committee (or the Business Panel) to place an item on the agenda of that select committee (or Business Panel respectively) for discussion.

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

## 6.7 Select committees – specific terms of reference

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

*Public Accounts Select Committee*

- To make reports and recommendations to the Council or the Executive which promote the better custodianship of the Council's finances and to make recommendations for best financial practice across the authority.

- To investigate the possibilities for improving the Council's financial management practice and to make reports and recommendations to Executive or Council as appropriate.

- To encourage the highest standards of financial custodianship where necessary overseeing training activity for all members in this area.

- To consult on and to comment on and make recommendations to the Executive in respect of the actual and proposed contents of the Council's budget and without limiting the general remit of the committee, to hold the Executive to account for its performance in respect of all budgetary matters.

- To receive reports as appropriate from the Audit Panel in respect of their overview of contract procedure rules and financial regulations.

- To make recommendations and reports for consideration by the Executive or Council to improve procurement practice.

- To scrutinise the effectiveness of the Audit Panel.

*Healthier Communities Select Committee*

(a) To fulfil all of the Overview and Scrutiny functions in relation to the provision of service by and performance of health bodies providing services for local people. These functions shall include all powers in relation to health matters given to the Council's Overview and Scrutiny Committee by any legislation but in particular the NHS Act 2006 as amended, the Health and Social Care Act 2012, the Care Act 2014 and regulations made under that legislation, and any other legislation in force from time to time.

(b) To review and scrutinise the decisions and actions of the Health and Wellbeing Board and to make reports and recommendations to the Council and/or Mayor and Cabinet.

(c) To review and scrutinise in accordance with regulations made under Section 244 NHS Act 2006 matters relating to the health service in the area and to make reports and recommendations on such matters in accordance with those regulations

(d) Require the attendance of representatives of relevant health bodies at meetings of the select committee to address it, answer questions and listen to the comments of local people on matters of local concern.

(e) With the exception of matters pertaining to the Council's duty in relation to special educational needs, to fulfil all of the Council's overview and scrutiny functions in relation to social services provided for those aged 19 years old or older including but not limited to services provided under the Local Authority Social Services Act 1970, Children Act 2004, National Assistance Act 1948, Mental Health Act 1983, NHS and Community Care Act 1990, NHS Act 2006, Health and Social Care Act 2012, Care Act 2014 and any other relevant legislation in place from time to time.

(f) To fulfil all of the Council's Overview and Scrutiny functions in relation to the lifelong learning of those 19 years or over (excluding schools and school related services).

(g) To receive referrals from Healthwatch and consider whether to make any report/recommendation in relation to such referral (unless the referral relates solely to health services for those aged under 19 years of age, in which case the referral from Healthwatch should be referred to the Children and Young People Select Committee .

(h) To review and scrutinise the Council's public health functions.

(i) Without limiting the remit of this Select Committee, its terms of reference shall include overview and scrutiny functions in relation to:-

- people with learning difficulties
- people with physical disabilities
- mental health services
- the provision of health services by those other than the Council
- provision for elderly people
- the use of Section 75 NHS Act 2006 flexibilities to provide services in partnership with health organisations
- lifelong learning of those aged 19 years or more (excluding schools and school related services)
- Community Education Lewisham
- other matters relating to Health and Adult Care and Lifelong Learning for those aged 19 years or over

(j) Without limiting the remit of the Select Committee, to hold the Executive to account for its performance in relation to the delivery of Council objectives in the provision of adult services and health and lifelong learning.

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

*Children & Young People Select Committee*

(a) To fulfil all overview and scrutiny functions as they relate to the social care of children and young people up to the age of 19 years including but not limited to the following activities:-

(i) the social services functions of the Council under the Children Act 2004, and all functions of the Council under the National Assistance Act 1948, the Mental Health Act 1983, Children Act 1989, the NHS and Community Care Act 1990, Children Act 2004, Children and Families Act 2014 and all other relevant legislation in force from time to time

(ii) to invite representatives of other service providers to children and young people in the area to give account of their performance and to answer questions.

(b) In so far as they relate to the provision of services for those under the age of 19 years, the exercise of all of the Council's powers under all relevant legislation pertaining to education from time to time in force. Without limiting the generality of this, this shall include, in particular, schools and school related services.

(c) The exercise of the overview and scrutiny powers of the Council in so far as they relate to people under 19 years of age in the provision of opportunities for education, training and learning outside the school environment, including pre-school services.

(d) In so far as they relate to children and young people under 19 years of age, to make comments and recommendations to the Executive on the contents and proposed contents of the plans making up the Council's policy framework.

(e) In so far as they relate to people under the age of 25 years, to make comments and recommendations on the provision of education, training and learning by those with special educational needs.

(f) Without limiting the remit of the Select Committee, its terms of reference include the following matters:

- Child protection - covering provision for vulnerable children including children in need and children looked after, placements, foster care and adoption
- Early years provision
- Special needs provision
- Schools and related services
- Youth Service
- Youth offending and challenging behaviour
- Transitional services for those leaving care
- Other matters relating to children and young people

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

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

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

*Safer Stronger Communities Select Committee*

(a) To fulfil all overview and scrutiny functions in relation to the discharge by responsible authorities of their crime and disorder function as set out in Sections 19 and 20 Police & Justice Act 2006, as amended from time to time, and all other relevant legislation. This shall include the power:

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

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

(iii) to make reports and/or recommendations to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority. A local crime and disorder matter in relation to a member means a matter

concerning crime and disorder (including, in particular, forms of crime and disorder involving anti-social behaviour or other behaviour adversely affecting the environment), or the misuse of drugs, alcohol and other substances, which affect all or part of the electoral area for which the member is elected or any person who lives or works there.

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

1. to recommend to the Executive, the Council or an appropriate committee, proposals for policy development in relation to equalities issues;

2. to analyse policy options as necessary to inform the proposals to be made to the Executive or other appropriate committee;

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

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

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

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

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

(c) Overview & Scrutiny functions (excluding call-in) in relation to library provision.

*Sustainable Development Select Committee*

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

- to examine issues relating to the protection of the environment including ‘green’ issues such as the conservation of natural resources, air quality, energy efficiency and conservation and/or the reduction of all types of pollution and make recommendations to the Mayor and Cabinet as appropriate;

- to comment and consult on and make recommendations to the Mayor and Cabinet in relation to the following:

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

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

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

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

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

  vi generally to examine the performance of the Mayor and Cabinet in relation to the matters listed at (i) to (v) above.

- the review and scrutiny of the exercise by risk management authorities of flood risk management and coastal erosion risk management affecting the area.

*Housing Select Committee*

To fulfil all overview and scrutiny functions in relation to the discharge by the authority of its housing functions. This shall include the power to:-

(a) review and scrutinise decisions made or other action taken in connection with the discharge of the Council of its housing function

(b) make reports or recommendations to the authority and/or Mayor and Cabinet with respect to the discharge of these functions

(c) make recommendations to the authority and/or Mayor and Cabinet proposals for housing policy

(d) to review initiatives put in place by the Council with a view to improving, increasing and enhancing housing in the borough, making recommendations and/or report thereon to the Council and/or Mayor and Cabinet

(e) To establish links with housing providers in the borough which are concerned with the provision of social housing

**6.8 Business Panel – specific terms of reference**

The Overview and Scrutiny Business Panel will have the following terms of reference:

(a) the co-ordination and approval of the work programme of each overview and scrutiny select committee (subject always to the right of a member of an overview and scrutiny committee or select committee to place an item on the agenda) to secure the most effective use of committee time and Council resources and to prevent overlaps;

(b) where a particular issue would fall within the remit of more than one overview and scrutiny select committee, to decide on the allocation of the issue for consideration. The Business Panel may allocate to a select committee or reserve the matter to itself for consideration.

(c) the exercise of powers in relation to call in on behalf of the overview and scrutiny committee (except those which are within the terms of reference of the Education Business Panel) in accordance with the provisions of Part IV E18, including :-

i) within seven working days of notice of decisions being given, to refer an executive decision made but not yet implemented back to the decision maker for reconsideration in accordance with conflict resolution procedures to be adopted by the Council;

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

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

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

- crime and disorder reduction strategy
- local transport plan
- youth justice plan;

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

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

(h) to consider any referral properly made by a Councillor/ Councillors for consideration by overview and scrutiny which relates to the remit or more than one select committee.

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

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

**6.9 Education Business Panel – specific terms of reference**

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

**6.10 Joint overview and scrutiny committees**

From time to time, the Council may establish and appoint members to joint overview and scrutiny arrangements including but not limited to a joint overview and scrutiny committee with other Council(s) to carry out overview and scrutiny functions in relation to health bodies under Section 245 NHS Act 2006, Section 123 Local Government and Public Involvement in Health Act 2007 regulations thereunder, amendments thereto and/or other relevant legislation

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

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

**6.11 Task and Finish Groups**

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

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

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

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

**6.12 Changes to the overview and scrutiny arrangements**

From time to time, the Council may want to make changes to its overview and scrutiny arrangements. For example, it may wish to alter the terms of reference of existing select committees or the Business Panel, or change their composition. Changes to the overview and scrutiny arrangements will not be considered to be a change to the Constitution which would require consultation unless any of the following criteria are met:-

(a) the number of scrutiny select committees in total would fall to less than four, or rise to more than ten;

(b) the number of places on any select committee would fall to less than five;

(c) the terms of reference and or composition of the Business Panel(s) would change in a manner other than to effect a change which, in the opinion of the Monitoring Officer, is minor.

**6.13 Membership of the overview and scrutiny committee**

Members of the Executive may not be appointed to the overview and scrutiny committee or any of its select committees or the Business Panel or any joint overview and scrutiny committee. Any member who is appointed by the Mayor to serve on the Executive for part of a municipal year may not serve on the Overview and Scrutiny Committee at any time thereafter during that year.

**6.14 Proceedings of overview and scrutiny committee**

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

**6.15 Political balance**

The overview and scrutiny committee and its sub-committees must by law comply with the provisions of the Local Government and Housing Act 1989. The Council must ensure that the membership of its overview and scrutiny committees and sub committees reflects the political composition of the Council unless the Council agrees unanimously that this is not required – see Procedure Rule J1.

## ARTICLE 7
## THE EXECUTIVE

**7.1 Composition of the Executive**

By law, the Executive consists of:-

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

**7.2 Executive decisions**

(a) Executive decisions are those which by law, or by this Constitution, do not fall to be made by the Council, or any committee, sub committee or officer, by virtue of decision making

powers delegated by the Council. Executive decisions fall to be made by the Mayor, or as delegated by the Mayor, in accordance with the law.

(b) The Mayor may make decisions alone, or delegate them to the Executive as a whole, to a committee of the Executive, to individual members of the Executive or to Council staff. He/she may also delegate decision making powers to area committees, single ward members, joint committees or other local authorities or their executives in accordance with the law.

(c) The Mayor will prepare and keep up to date a schedule of Mayoral delegations, which will be appended to this Constitution at Part VIII.

**7.3 The Mayor – role and function**

The Mayor will carry out the following roles:-

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

**7.4 The Mayor**

The Mayor and all councillors make up the Council. The following provisions shall apply to the Mayor.

(a) The Mayor shall be entitled to attend any meeting of the full Council. He/she will be entitled to speak, participate in the debate and vote at any meeting of the full Council he/she attends in accordance with the provisions of the Constitution. He/she will also answer questions from councillors and the public at such meetings as set out in the Council's procedure rules at Part IV

(b) The Mayor is subject to the same rules about qualification and disqualification from office as any councillor;

(c) The Mayor must follow the rules about disclosure of interests and comply with the Member Code of Conduct in place from time to time;

(d) The Mayor may not be a member of the Standards Committee, an overview and scrutiny committee, select committee, Business Panel or joint overview and scrutiny committee.

(e) is subject to the Members' Allowances Scheme in place from time to time;

(f) is subject to the same rules relating to casual vacancies as apply to all councillors;

(g) will create a casual vacancy if for any reason the office becomes vacant, which will be filled in the normal way.

**7.5 Mayor – the title**

Only the elected Mayor may use the title 'Mayor'

**7.6 Deputy Mayor**

*(a)* *Appointment* – At the first meeting of the Council after his/her election, the Mayor will appoint one of the members of the Executive to be the deputy Mayor.

*(b)* *Term of office* – the Deputy Mayor will hold office until the end of the Mayor's term of office unless he/she resigns as Deputy Mayor, is no longer a member of the Council, is no longer a member of the Executive or is removed from the office of Deputy Mayor by the Mayor. If the office of Deputy Mayor becomes vacant, the Mayor will appoint another person in his/her place.

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

*(d)* *Removal from office* – The Deputy Mayor holds office until he/she resigns as deputy Mayor, ceases to be a member of the Council, ceases to be a member of the Executive, the end of the term of the Mayor, or the Mayor decides to remove him/her from office. However before a decision to remove the Deputy Mayor from office will take effect, the Mayor must inform the Council's Monitoring Officer in writing that he/she has decided to remove the Deputy Mayor from office and the date upon which such removal is to take effect. The notice must also state the identity of the new Deputy Mayor. The change will be effective on the date the Monitoring Officer gives notice to all councillors. The Mayor will report his/her decision to the next meeting of the full Council and at that

meeting the Mayor will inform the Council of the identity of the new Deputy Mayor.

**7.7 The Executive – generally**

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

(b) *Term of office* – Councillors appointed to the Executive by the Mayor, (unless they resign as a member of the Executive or cease to be a councillor) will hold office until the end of the term of the Mayor except that the Mayor may remove them from office as he/she thinks fit.

(c) *Appointment by the Mayor* – Subject to the legal minimum and maximum, the size and composition of the Executive is a matter solely for the Mayor to decide. He/she may choose to appoint councillors from any political group or those not in any political group. The Executive need not reflect the overall political composition of the Council. The Mayor must report his/her appointments to the Monitoring Officer immediately they are made and to the next meeting of the full Council. The appointment of members to the Executive will only be effective when their appointment is reported to a meeting of the Council.

(d) *Removal from the Executive* - Every member of the Executive will remain a member of the Executive until he/she resigns from the Executive, ceases to be a member of the Council, the end of the term of the Mayor, or the Mayor decides to remove him/her from office. However before a decision to remove a member from the Executive will take effect, the Mayor must inform the Council's Monitoring Officer in writing that he/she has decided to remove the member from office and the date upon which such removal is to take effect. The notice must also state the identity of any newly appointed member of the Executive and if appropriate any amendment to the Mayoral scheme of delegation arising. The change will be effective on the date the Monitoring Officer gives notice of the change to all Members of the Council. The Mayor will report his/her decision to the next meeting of the full Council and at that meeting the Mayor must inform the Council of the identity of any new Executive member who will succeed the outgoing member and if appropriate any amendment to the Mayoral scheme of delegation arising

**7.8 Proceedings of the Executive**

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

## ARTICLE 8
## CONFLICT RESOLUTION

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

## ARTICLE 9
## COMMITTEES

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

| Committee | Composition | Terms of reference |
|---|---|---|
| | | |
| 3 planning committees A, B and C having no geographical boundaries | 10 members of the Council, including no more than 1 member from each Council ward | All non-executive, (except for any local choice functions reserved to the Executive – see table at Part III) – decisions relating to planning and development control under the Town and Country Planning Act 1990 and all other relevant legislation in force from time to time and in relation to building control under the Building Act 1984, regulations thereunder and all other legislation in force from time to time: This includes by way of example but not limitation:<br><br>• Determining applications for planning permission, advertisement consent, listed building and conservation area consents, certificates of lawfulness or lawful development, works to trees, hazardous substances and building control approval |

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| | | • Issuing enforcement notices, stop notices and listed building enforcement notices<br><br>• Taking action in relation to unauthorised advertisements<br><br>• Issuing notices in relation to untidy land<br><br>• Issuing notices and orders in relation to building control<br><br>• The exercise of the Council's powers in relation to listed buildings<br><br>• Commenting on draft planning briefs and plans to the development of land prepared by the Executive<br><br>• Entering into agreements to regulate the development or use of land<br><br>• Carrying out any other regulatory enforcement functions contained with town and country planning or building control legislation in force from time to time<br><br>• Creating, diverting and stopping up highways, footpaths and bridleways<br><br>• Removal of nuisance deposits on the highway<br><br>• all non-executive highways and planning functions not reserved to Council by law or this Constitution including those set out in the Schedule of relevant statutes in the Scheme of Delegation<br><br>• to authorise the Director of Law to take any legal action which may |

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| | | be appropriate which relates to any functions of the committee including the taking or defending of legal proceedings and entering into legal agreements as may be required |
| | | |
| Strategic Planning Committee | 10 members of the Council who shall be the chairs of each of the other planning committees, five other members and two members of the Executive | To consider any matter listed within the terms of reference for local planning committees A, B and C, where the Council's Director of Planning, or the Council's Head of Transport and Engineering in relation to highways matters, is of the view that they would be more appropriate for consideration by the strategic planning committee. Without limiting the discretion of the Director of Planning or the Head of Transport and Engineering in any way, matters may be considered to be more appropriate for the strategic planning committee in the following circumstances:<br><br>• where the decision relates to a development/matter of strategic importance which will have a significant impact on the borough, or<br><br>• where legal proceedings in relation to the matter are in existence or in contemplation, or<br><br>▪ where three or more members of the planning committees A, B and C are disqualified in some way from participating in the decision |
| | | |
| Licensing Committee | Ten members of the Council with up to five sub-committees each consisting of three members of the main Committee. Every member of the main Licensing Committee acts as substitute for | 1. To oversee the discharge of all licensing functions of the Council as the licensing authority under the provisions of the Licensing Act 2003, and the Gambling Act 2005, except the determination of the Council's statement of Licensing Policy and the publication of that Statement (pursuant to the Licensing Act 2003), |

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| | any member sitting on any Licensing Sub-Committee or Urgency Sub Committee | and the determination of the Council's Statement of Licensing Policy, the publication of that Statement and any Policy not to permit casinos (pursuant to the Gambling Act 2005). References to the Licensing Act and Gambling Act in these terms of reference include amendments thereto, regulations made under them and any other relevant legislation in place from time to time.<br><br>2. To establish four sub-committees and one urgency sub-committee to determine matters pursuant to both the Licensing Act 2003 and the Gambling Act 2005. The Licensing Act 2003 matters are regarding personal licences, premises licenses, club premises certificates, provisional statement, designated premises supervisor, interim authorities temporary event notices, summary reviews (including expedited reviews held remotely), and objections as consultee, and as Responsible Authority, save for such matters as are reserved to the main Licensing Committee and any matters which the Director of Public Protection and Safety considers more appropriate for consideration by the main Licensing Committee where the decision is considered likely to have a significant impact on the borough or area of it or to people in it. The Gambling Act 2005 matters relate to premises licences, provisional statements, permits and temporary use notices and objections as consultee, save for such matters as are reserved to the main Licensing Committee and any matters which the Director of Public Protection and Safety considers more appropriate for consideration by the main committee. Without limiting the discretion of the Director of Public |

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| | | Protection and Safety in any way, matters may be more appropriate for the main Licensing Committee where the decision is considered likely to have a significant impact on the borough or area of it or to people in it.<br><br>3. To discharge and arrange for the discharge of the functions governed by the Licensing Act 2003 and the Gambling Act 2005 by one or more sub-committees or by officers except where prohibited by either the Licensing Act 2003 or the Gambling Act 2005.<br><br>4. To make regulations for the conduct of meetings of the committee and sub-committees in accordance with Section 9(3) of the Licensing Act 2003.<br><br>5. To receive and consider annual reports, where appropriate, on the needs of the local tourist economy, employment and investment in the area and any other matter directly related to the Licensing Act 2003 functions in the borough.<br><br>6. To direct officers to the planning committee, where appropriate, on the situation regarding licensed premises in the area, including the impact of alcohol related crime and disorder. |
| Licensing (Supplementary) Committee | The members and the Chair and Vice-Chair of the Licensing (Supplementary) Committee shall be identical to those of the Licensing Committee | From time to time, to exercise all licensing and registration functions (including the setting of fees as appropriate) to the extent they are not the responsibility of the Licensing Committee. |
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| Pensions Investment Committee | 8 members of the Council | To exercise all functions of the Council in relation to local government pensions under Section 7,12 or 24 Superannuation Act 1972 and all other relevant pensions legislation. By way of illustration this includes:<br><br>• review with fund managers of the investment performance of the superannuation fund on a quarterly basis<br><br>• to examine the portfolio of investments, and its market value, at the end of each quarter for suitability and diversification<br><br>• to inform the fund managers of the Council's policy regarding investment of its superannuation funds, and to take advice on the possible effect on performance resulting from implementing the policy<br><br>• to review from time to time the appointment of the fund manager<br><br>• to determine the overall investment strategy and policies of the fund on professional advice<br><br>• responsibility for compliance with the ten Myners principles incorporated in the "CIPFA Pensions Panel Principles for Investment Decision Making" and all other relevant guidance in relation to the Local Government Pension Scheme in force and issued by CIPFA from time to time. |
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| Health and Safety Committee | 6 members of the Council | The discharge of functions under relevant statutory provisions within the meaning of Part I of the Health and Safety at Work Act 1974 to the extent that they are discharged other than in the Council's capacity as employer |
| | | |
| Elections Committee | 6 members of the Council no more than one half of whom may also be members of the Executive | The Committee may exercise certain powers in relation to the holding of elections and the maintenance of the electoral register, and may from time to time advise the Council where the law requires that the decision may only be taken by full Council:<br>• the appointment of an electoral registration officer<br>• the assignment of officers in relation to requisitions of the registration officer<br>• the appointment of a returning officer for local government elections<br>• the provision of assistance at European Parliamentary elections<br>• the division of constituencies into polling districts<br>• the division of electoral divisions into polling districts at local elections<br>• the submission of proposals to the Secretary of State for an order under section 10 Representation of the People Act 2000 for a pilot scheme for local elections<br>• power to make submissions to the Boundary Commission for England in relation to the boundaries of the borough or ward boundaries<br>• the appointment of a proper officer for the purposes of giving various notices in relation to elections and referendums (e.g. in relation to the verification number for petitions for a referendum under LGA 2000)<br>• to conduct reviews of the conduct of elections in the borough |

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| Appointments Committee | The Chair of Overview & Scrutiny, and two such executive members as the Mayor, as Leader of the largest political group, may nominate on a meeting by meeting basis, and two or the smallest higher number of non-executive members required to ensure that the political composition of the Council is reflected. In the event of any member informing the proper officer in writing that they are unable to attend a meeting of the Appointments Committee, then the Council appoints such person as the Leader of the relevant political group shall nominate as substitute in writing to the proper officer to be a member of the Appointments Committee for the purpose of that meeting only.<br><br>The membership of the Appointments Committee when it sits as the Standing Investigating and Disciplinary Committee shall include at least one executive member. | • The recruitment and selection of chief officers and deputy chief officers (excluding the Head of Paid Service) in accordance with regulations relating to such appointments in force from time to time.<br><br>• To assist the Council in the appointment of the Head of Paid Service as the Council shall request from time to time, save that by law this appointment is a decision for the full Council.<br><br>• To agree the terms and conditions of employment of the Head of Paid Service as well as the monitoring of his/her performance against targets set for the Head of Paid Service by the Mayor.<br><br>• In respect of the Chief Executive, Director of Finance and Monitoring Officer, to act as the Standing Investigating and Disciplinary Committee in accordance with the National Joint Committee for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook, or such other national agreement in place from time to time (the Framework) and in this respect :-<br><br>• To consider whether, in respect of the Chief Executive, Director of Finance or Monitoring Officer, there is a case to answer in respect of any substantive allegation made relating to his/her conduct or capability and any other substantial issue that requires investigation<br><br>• To appoint Independent Investigator(s) in accordance with |

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| | | the Framework, where the Committee is satisfied that there is a case to answer.<br><br>• To receive the findings of the Independent Investigator and to decide what action, if any, should be taken as a result of the outcome of the investigation. Such action might be informal resolution, further investigation, a proposal to dismiss or some other action short of dismissal.<br><br>• Where the Committee decides to make a proposal to dismiss, to refer the matter for consideration by an Independent Panel constituted in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended, or such other relevant legislation in place from time to time.<br><br>• The Committee may, where it considers it necessary to do so, suspend the Chief Executive, Monitoring Officer or Director of Finance whilst any investigation in to his/her conduct or capability is ongoing.<br><br>• To do all things necessary to enable the Committee to carry out the above functions effectively.<br><br>• The quorum for the Appointments Committee shall be 3. |
| | | |
| Standards Committee | 10 councillors, not more than one of whom may be a member of the executive and 6 co-optees | The terms of reference appear at Part V |

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

| Working Party | Composition | Terms of reference |
|---|---|---|
| Constitution Working Party | • One representative of each political group and six or the smallest number higher, of councillors required to ensure the political composition of the Council is reflected. | To advise the Council on the operation of its executive arrangements under the Local Government Act 2000 as amended, and make proposals to the Council for any changes to the Council's Constitution it considers necessary |

**9.3** The Council will also appoint an advisory Audit Panel as set out in the first column of the table below with the composition set out in the second column and the terms of reference set out in the third column

| Audit Panel | Composition | Terms of Reference |
|---|---|---|
| | | |
| Audit Panel | Consisting of 6 non executive Councillors, one of whom shall serve as chair and up to 4 independent co-opted members | (a) To receive, review and where appropriate advise as appropriate and make recommendations to the Council * on the following matters:<br><br>• The review and approval of the Council's Internal Audit strategy, plans and resources.<br><br>• Internal Audit progress reports on a quarterly basis summarizing the audit reports issued and performance of the Internal Audit function.<br><br>• The annual report of the Council's Head of Internal Audit and Inspection Agencies |

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| | | • Reports from Internal Audit on the implementation of agreed recommendations where management have failed to undertake the necessary actions within the planned audit time frame.<br><br>• The external auditor's Annual Plan, relevant reports, and reports to those charged with governance.<br><br>• External inspection reports and specific reports as agreed with the external auditor<br><br>• The monitoring of the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.<br><br>• An overview of the Council's Constitution in respect of audit procedure rules, contract procedure rules, and financial regulations.<br><br>• The Council's assurance arrangements including the Statement of Internal Control.<br><br>• The Council's Annual Statement of Accounts, to consider whether appropriate accounting policies have been followed and whether there are any concerns arising from the financial |

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| | | statements or from the audit that need to be brought to the attention of the Executive.<br><br>• The external auditor's opinion and reports to members, and monitoring of management action in response to issues raised by external audit. |
| | | ***** Any advice and recommendations made by the Audit Panel shall be referred to the Chief Executive and/or Executive Director of Corporate Services who shall refer the matter to the appropriate Council decision maker for consideration. |

9.4 The Council will also appoint a Health and Wellbeing Board. The membership and terms of reference of the Health and Wellbeing Board are set out below.

| **Body** | **Composition** | **Terms of Reference** |
|---|---|---|
| Health and Wellbeing Board | The Mayor and such councillors as he may appoint;<br>The Council's Executive Director for Community Services; The Council's Executive Director for Children & Young People; The Council's Director of Public Health; 1 representative of the Local Healthwatch Organisation for the area; 1 representative of the Lewisham Clinical | To carry out statutory functions of the Health and Wellbeing Board under the Health and Social Care Act 2012, as amended from time to time, regulations thereunder and all other relevant statutory provision. Activities of the Health and Wellbeing Board include, but may not be limited to, the following:-<br><br>• To encourage persons who arrange for the provision of any health or social services in the area to work in an integrated manner, for the purpose of advancing the health and wellbeing of the area |

| | | |
|---|---|---|
| | Commissioning Group; such other persons or representatives of such other persons as the Council thinks appropriate. This will normally include 2 representatives of the voluntary sector.<br>NB: Paid officials of the Council, Clinical Commissioning Group or Healthwatch, if appointed as members, are not to be allowed to vote. If those groups appoint representatives who are either the Chair or a member of their managing committee or equivalent body, they may vote, provided they are not also an employee of that organisation.<br><br>The NHS Commissioning Board must appoint a representative for the purpose of participating in the preparation of Joint Strategic Needs Assessments and the development of joint Health & | • To provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under Section 75 NHS Act 2006 in connection with the provision of such services<br><br>• To encourage persons who arrange for the provision of health related services in its area to work closely with the Health and Wellbeing Board<br><br>• To prepare joint strategic needs assessments (as set out in Section 116 Local Government Public Involvement in Health Act 2007), in respect of which the Council and each partner clinical commissioning group will prepare a strategy for meeting the needs included in the assessment by the exercise of the functions of the Council, the NHS Commissioning Board or the clinical commissioning groups<br><br>• To give its opinion to the Council on whether the Council is discharging its duty to have regard to any joint strategic needs assessment and any joint health and wellbeing strategy prepared in the exercise of its functions<br><br>• To exercise any Council function which the Council delegates to the Health and Wellbeing Board, save that it may not exercise the |

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| | Wellbeing Strategies, and to join the Health & Wellbeing Board when it is considering a matter relating to the exercise, or proposed exercise of the NHS Commissioning Board's commissioning functions in relation to the area if it is requested to do so by the Board. | Council's functions under Section 244 NHS Act 2006 (statutory consultee in relation to substantial variations in service etc) |

Special procedural provisions apply to Health and Wellbeing Boards and these are dealt with at Council Procedure Rules.

**9.5 General provisions applying to committees**

General rules apply to committees as contained in Part J – Committee General Rules attached to this Constitution. Those rules shall also apply to the meetings of the Constitution Working Party. Regulations exempting the Health and Wellbeing Board from some of these provisions are in place and these are reflected in this Constitution.

**9.6** The Council will appoint a Pension Board as set out in the first column of the table below, with the composition set out in the second column and the terms of reference set out in the third column.

| ***Pension Board*** | ***Composition*** | ***Terms of reference*** |
|---|---|---|
| | | |
| *Pension Board* | ***2 employer representatives, and***<br><br>***2 scheme member representatives,***<br><br>***all of them appointed in accordance with the Pension Board detailed Terms of Reference as*** | To fulfil the statutory functions imposed upon Pension Boards by the Public Service Pensions Act 2013, the Local Government Pension Scheme Regulations 2013 as amended, any subsequent amendment thereto and any other relevant legislation in place from time to time |

| | | |
|---|---|---|
| | ***approved and published by the Council from time to time***<br><br>***One other member as the Council may from time to time appoint to act as independent Chair, such member not to have any voting rights.*** | In particular to assist the Council and advise it upon measures as administering authority to secure compliance with the Local Government Pension Scheme Regulations and other legal requirements , and generally to ensure that there is efficient and effective governance and administration of the fund at a local level.<br><br>To report annually to the Council in relation to the above for inclusion in the Council's annual governance statement |

The detailed terms of reference for the Pension Board appear at Appendix 4 to this Constitution.

## ARTICLE 10
## LOCAL CHOICE

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

## ARTICLE 11
## ETHICS

### 11.1 Member Code of Conduct

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

### 11.2 Employee Code of Conduct

Similar standards are expected of Council staff. The Council requires behaviour of the highest calibre and employees are required to adhere to an Employee Code of Conduct which appears at Part V - Ethics.

### 11.3 A Standards Committee

The Council has and will maintain a Standards Committee consisting of 10 councillors and 6 independent co-opted members,. Not more than one member of the Executive may sit on the Council's Standards Committee. All elected members of the committee are entitled to vote, but co-opted members are not so entitled. Its terms of reference appear at Part V Ethics. The Standards Committee may appoint one or more sub-committees to carry out any of its functions in accordance with the law.

## ARTICLE 12
## LOCAL ASSEMBLIES/POSITIVE AGEING COUNCIL/PUBLIC TRANSPORT LIASION FORUM

### 12.1 Local Assemblies

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

**Local Assemblies**

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

### 12.2 Positive Ageing Council

This Council has also established the Positive Ageing Council which gives residents over 60 years of age a forum in the Council structure for discussing issues relating to later life. Though it is not a decision making body, the Positive Ageing Council is an important mechanism and provides a conduit to the Council and other public service providers through which older people can identify and prioritise issues.

The Rules of Procedure at Part IV demonstrate how the views of the Positive Ageing Council will be brought to the attention of Council and the Executive.

### 12.3 Public Transport Liaison Forum

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

| Body | Composition | Terms of reference |
|---|---|---|
| Public Transport Liaison Forum | Chair and Vice-Chair of Sustainable Development Select Committee and the Cabinet Member (or members) with responsibility for regeneration and transport | The Public Transport Liaison Forum will provide a place for councillors and members of the public to meet with public transport providers operating in Lewisham in order to:<br>• enable local users of transport services to raise issues with providers of public transport services<br>• enable transport providers to supply responses to those issues and further information about services and proposed services to local users |

# ARTICLE 13
# JOINT ARRANGEMENTS

## 13.1 Promoting wellbeing

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

(a) enter into arrangements or agreements with any body;

(b) co-operate with or facilitate or co-ordinate the activities of any person or body; and

(c) exercise on behalf of that person or body any functions of that person or body,

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

## 13.2 Joint arrangements

(a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are non-executive functions.

(b) The Council may arrange for the discharge of non-executive functions by another authority or the executive of another authority.

(c) The Mayor may establish joint arrangements with one or more authorities or their executives to exercise executive functions.

(d) The Mayor may arrange for the discharge of executive functions by another authority or the executive of another authority.

(e) All joint arrangements or decisions relating to the exercise of functions by one authority on behalf of another will be taken in accordance with the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 or other relevant legislation in force from time to time.

## 13.3 Access to information

The access to information rules in Part IV of this Constitution apply to joint arrangements and reflect the Openness of Local Government Bodies Regulations 2014.

### 13.4 Contracting out

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

## ARTICLE 14
## STAFF

### 14.1 General

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

### 14.2 Structure

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

### 14.3 Statutory officers

The Council will designate the following posts as shown

| Post | Designation |
|---|---|
| Chief Executive | Head of Paid Service Section 4 Local Government and Housing Act 1989 |
| Director of Law | Monitoring Officer Section 5 Local Government and Housing Act 1989 |
| Executive Director for Corporate Services | Chief Finance Officer Section 151 Local Government Act 1972 and Section 114 Local Government Finance Act 1988 |
| Executive Director for Children and Young People | Director of Children's Services Section 18 Children Act 2004 |
| Executive Director for Community Services | Director of Adult Social Services Section 6 Local Authorities Social Services Act 1970 as amended |
| Director of Corporate Policy & Governance | Scrutiny Officer 9FB Local Government Act 2000. |
| Director of Public Health | Director of Public Health Section 30 Health & Social Care Act 2012 |

| | |
|---|---|
| Head of Information Governance | Data Protection Officer – General Data Protection Regulations and Section 69 Data Protection Act 2018 |

These postholders will have the functions described below.

**14.4 Functions of the Head of Paid Service**

The Head of Paid Service will have responsibility for:-

(a) *Overall corporate management*– and operational responsibility (including overall responsibility for all staff);

(b) *Professional advice* – the provision of professional advice to all parties in the decision making process

(c) *Representing the authority*- on partnership and external bodies as required by law or the Council

(d) *Records* – responsibility for appropriate record keeping for all Council decisions.

(e) *Report to Council* – the Head of Paid Service will report to Council where he considers it appropriate to do so, on the co-ordination of the discharge of the Council's functions, the number and grade of officers required for the discharge of functions and the organisation of officers.

(f) *Political restriction* – The Head of Paid Service will consider any applications for exemption from political restriction and make decisions as to whether to grant such exemptions

**14.5 Functions of the Monitoring Officer**

(a) *Maintaining the constitution*- The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by members, staff and public.

(b) *Ensuring lawfulness and fairness in decision making* – After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the full Council (or the Executive in respect of an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping

the proposal or decision being implemented until the report has been considered.

(c) *Supporting the Standards Committee* – The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee and will fulfil the role required by Part III Local Government Act 2000, and any relevant amendments thereto .

(d) *Conducting investigations*- The Monitoring Officer will conduct investigations into complaints of breach of the Member Code of Conduct as appropriate and where appropriate refer any reports or recommendations for action in respect of the complaint to the independent person appointed by the Council and the Standards Committee

(e) *Proper officer for access to information* – The Monitoring Officer will ensure that decisions, including executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(f) *Advising whether executive decisions are within the policy framework and budget* - The Monitoring Officer will advise whether decisions of the executive are in accordance with the policy framework and budget

(g) *Providing advice* – the Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and legal and vires issues in relation to budget and policy framework issues to all members.

(h) *Restrictions on functions* -The Monitoring Officer may not also be the Chief Finance Officer.

**14.6 Functions of the Chief Finance Officer**

(a) *Ensuring lawfulness and financial prudence of decision making* – After consulting with the Head of Paid Service and the Monitoring Officer to report to the full Council, or to the Executive in respect of executive functions, and the Council's external auditor, if he/she considers that any proposal decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

(b) *Administration of the Council's financial affairs* – The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) *Providing advice* – The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial propriety, probity and budget and policy framework issues to all members and will support and advise Councillors and officers in their respective roles.

(d) *Advising whether executive decisions are within the policy framework and budget* - The Chief Finance Officer will advise whether decisions of the executive are in accordance with the policy framework and budget

*(e)* *Give financial information*- The Chief Finance Officer will provide appropriate financial information to the media, members of the public and the community.

(f) *Restrictions on functions* – The Chief Finance Officer may not also be the Monitoring Officer but may hold the office of Head of Paid Service.

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

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

**14.8 Duties of the Executive Director for Children and Young People**

The Executive Director for Children and Young People is responsible for all of the functions of Director of Children's Services set out in Section 18 Children Act 2004 and any regulations made under it. This includes, but is not limited to, the functions of the local education authority (excluding further and higher education), children's social services, functions relating to those leaving care, health care services exercised by the Council under S75 NHS Act 2006 and interagency co-operation.

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

**14.9 Duties of the Executive Director for Community Services**

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

**14.10 Duties of the Director of Public Health**

The Director of Public Health has responsibility for implementation of the health improvement and public health duties conferred by Section 30 Health and Social Care Act 2012 including the production of an annual report.

**14.11 Duties of Scrutiny Officer**

The Scrutiny Officer is responsible for all of the functions in Section 9FB Local Government Act 2000. This includes:-

- promoting the role of the Council's overview and scrutiny committee(s)
- providing support to the overview and scrutiny committee(s) and their members
- providing support and guidance to members of the Council, Mayor and Cabinet and Council officers in relation to the functions of the Council's overview and scrutiny committee(s).

The Scrutiny Officer may not be the Head of Paid Service, Monitoring Officer or Chief Finance Officer.

**14.12** Duties of the Data Protection Officer

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

**14.13 Conduct**

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

### 14.14 Employment

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

## ARTICLE 15
## DELEGATING DECISION MAKING

### 15.1 Council delegations

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

### 15.2 Mayoral delegations

The Mayor presents to each Annual Meeting of the Council a scheme of delegation in relation to executive functions. Once reported to the Annual Meeting it becomes effective. During the course of the year, the Mayor is entitled to amend the delegations he/she has made. Amendments will become effective once they have been notified to the Monitoring Officer by the Mayor and notice of the amendment has been given to all members of the Council. Any such amendments will be incorporated into the Mayoral scheme of delegation and reported to full Council.

### 15.3 A scheme of delegation

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

## ARTICLE 16
## PRINCIPLES OF DECISION MAKING

### 16.1 Principles of decision making

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

(a) the decision will be made following an evaluation of options.

(b) the decision maker will take professional advice (including financial and legal advice where the decision may have legal and/or financial consequences)

(c) the decision will be taken following a consideration of all relevant matters and disregarding irrelevancies

(d) reasons for the decision will be recorded as will details of options considered with reasons for their rejection

(e) action taken will be proportionate to the result to be achieved

(f) respect for human rights will be balanced with the Council's duty to the wider community

(g) a presumption in favour of openness, unless there are compelling lawful reasons preventing the consideration of matters in public

(h) consultation appropriate to the matter under consideration

(i) clarity of aims and desired outcomes

(j) the highest standards of ethical conduct, avoiding actual, potential and perceived conflicts of interest.

**16.2 Key decisions**

The following executive decisions will be key decisions:-

(a) Decisions which will be likely to result in Council expenditure or savings of £500,000 or more (save treasury management transactions taken in accordance with the Council's Treasury Management Strategy as approved by the Council)

(b) Any decision likely to be significant in terms of its effect on communities living or working in an area comprising two or more wards, whether the impact is direct (e.g. where the decision relates to a road which crosses a ward boundary) or indirect (e.g. where the decision relates to the provision or withdrawal of a service which is or would be used by people from two or more wards)

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

(c) The Council will also define all executive decisions which relate to matters within the categories listed below as key decisions

whatever their financial impact, and irrespective of the number of wards affected by them:-

(i) Consideration of any report prepared by an external organisation (e.g. OFSTED) into the performance of the Council whether in general or in relation to a particular case, including the Council's response to it.

(ii) the closure or significant change in the character of a school or other educational facility.

(iii) consideration of any report relating to the possibility of the withdrawal of delegation of budget from a school

(iv) the giving of any statutory notice to a school or other educational establishment

(v) directions relating to the use and occupation of school premises

(vi) decisions relating to schools admission policy and standard numbers for schools

(vii) the making of instruments of government for schools

(viii) policies relating to special needs, attendance and exclusion, awards, charging and remission

(ix) the Council's scheme for the financing of maintained schools

(x) closure of, or significant reduction in provision of, any Council service

(xi) where the decision is one which will involve a significant change in the manner of Council service provision,

(xii) the fixing of fees and charges for Council services

(xiii) granting or withdrawing financial support to any voluntary sector organisation in excess of £10,000 (excluding financial support to any organisation which is funded by government initiatives e.g. European Funding)

(xiv) writing off any bad debt in excess of £50,000, unless the Council has within the last 3 years already written off debts for the person/organisation concerned totalling that amount in which case any further write off would be a key decision

(xv) the disposal of any Council property for less than best consideration

(xvi) the disposal of any interest in Council property with a value of £500,000 or more

(xvii) the taking by the Council of an interest in land worth £500,000 or more

(xviii) the granting of any interest in land where the interest is valued at £500,000 or more

(xix) the exercise of the Council's compulsory purchase powers

(xx) applications for funding from any external body which if successful would also require Council match funding of £500,000 or more, or entail a revenue commitment of at least £500,000 in total by the Council

(xxi) consideration of any matter which is to be the subject of a recommendation to full Council

(xxii) consideration of any matter in which, to the decision-maker's knowledge, the decision-maker (or any member of a committee or sub committee making the decision) has an interest which ought to be declared.

(xxiii) the award of a contract with a total value of £200,000 or more

(xxiv) where at least 5 members of the Council request that it be treated as a key decision, provided that in the opinion of the Monitoring Officer, they do so at least 6 weeks before a decision is likely to be taken

(xxv) where there is evidence of significant local opposition to proposals made by the Council

(xxvi) where the Speaker on advice from the Head of Paid Service and/or Monitoring Officer and/or Chief Finance Officer is of the view that the matter is one

which ought properly to be treated as a key decision, and informs the proper officer to that effect at least 6 weeks before the decision is in the opinion of the Monitoring Officer likely to be taken

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

(d) A decision maker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part IV of this Constitution

**16.3 Rules relating to decision making**

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

**16.4 Acting as a tribunal**

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

## ARTICLE 17
## FINANCE, CONTRACT AND LEGAL MATTERS

**17.1 Financial management**

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

**17.2 Contracts**

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

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

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

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

**17.3 Legal proceedings**

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

**17.4 Authentication of documents**

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

## ARTICLE 18
## APPEALS AND REPRESENTATION PANELS

The Council will establish appeals and representations panels to deal with complaints and other matters as the law requires. Currently the Council has established the panels in column 1 of the table below which deal with the matters set out in column 2 of that table. This may change from time to time.

| Column 1 | Column 2 |
|---|---|
| Independent Review Panel | To review decisions in relation to permanent school exclusions |
| Admission Appeal panel | To deal with appeals against refusal of school admission |

## ARTICLE 19
## STANDING ADVISORY COUNCIL ON RELGIOUS EDUCATION (SACRE)

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

It shall have the composition set out in Appendix 7 to this constitution

## ARTICLE 20
## SCHOOLS FORUM

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

## ARTICLE 21
## YOUNG MAYOR

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

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

## ARTICLE 22
## REVIEW OF THE CONSTITUTION

### 21.1 Review by Monitoring Officer

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

**21.2 Changes to the constitution**

(a) *Council decision required* – Changes to the Constitution may only be made by the decision of full Council.

(b) *Mayoral consent* – Changes to the Council's executive arrangements, except in so far as they relate only to the number, terms of reference or composition of overview and scrutiny committees, will not be effective unless the Mayor consents in writing.

(c) *Change to a different form of governance* – If the Council is considering a move away from a directly elected Mayor and cabinet model of executive arrangements, either to a leader and cabinet executive model, or to a model of governance based on one or more committees, it will take reasonable steps to consult with local stakeholders and electors when drawing up proposals and will hold a binding referendum. Any change will not take place until the end of the Mayor's term of office. Any decision to move to a different form of governance, following referendum must be taken by full Council.

## ARTICLE 23
## PUBLICATION, INTERPRETATION AND SUSPENSION

**23.1 Publication**

(a) The Monitoring Officer will give an electronic version of this Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council and will provided a printed version to any member who requests one.

(b) The Monitoring Officer will ensure that there are copies of the Constitution available for inspection at Council offices, libraries, any other appropriate locations considered appropriate and on the Council's website, and that they can be purchased in hard copy by members of the local press and the public on payment of a reasonable fee.

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

**23.2 Interpretation**

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

**23.3 Suspension**

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

# Part III

# LOCAL CHOICE FUNCTIONS

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

| **Function** | **Executive/non executive function** |
|---|---|
| | |
| Functions under local legislation (save those prohibited to the Executive by law) | Executive function |
| | |
| The determination of appeals against any decision of the Council | executive function |
| | |
| The appointment of review boards under regulations made under Section 34(4) Social Security Act 1998 (determination of claims and review ) | executive function |
| | |
| Making arrangements for appeals against exclusions of pupils from maintained schools | executive function |
| | |
| Making arrangements for admissions appeals under Section 94(1) (1A) and (4) School Standard and Framework Act 1998 | Executive function |
| | |
| Making arrangements for appeals by governing bodies under Section 95(2) School Standards and Framework Act 1998 in respect of children who have been excluded from 2 or more schools | Executive function |
| | |
| Functions relating to contaminated land | executive function |
| | |
| Functions relating to the control of pollution or the management of air quality | executive function |
| | |
| The service of an abatement notice in respect of a statutory nuisance – Section 80 Environmental Protection Act 1990 | executive function |
| | |
| The passing of a resolution that Schedule 2 Noise and Statutory | executive function |

| | |
|---|---|
| Nuisance Act 1993 should apply in the area | |
| | |
| The inspection of the area to detect any statutory nuisance (Section 79 EPA 1990) | executive function |
| | |
| Investigation of complaints relating to existence of statutory nuisance | executive function |
| | |
| Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land | executive function |
| | |
| Obtaining particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976. | executive function |
| | |
| Making agreements for the execution of highways works | executive function |
| | |
| Appointments to any office (save employment with the Council) and to any body (or committee or sub committee of such a body) save the Council itself or a joint committee of two or more authorities and the revocation of any such appointment<br><br>. | It will be the responsibility of the Executive to make the following appointments:-<br><br>Local Government Association;<br><br>London Councils and all its subsidiary bodies;<br><br>all bodies established to give effect to the BSF programme in Lewisham, including but not limited to Lewisham Local Education Partnership and any joint venture company established under the BSF programme;<br><br>Lewisham Homes;<br><br>Thames Gateway London Partnership;<br><br>South East London Waste Disposal Group (SELWDG),<br><br>Newable (formerly Greater London Enterprise Limited,)<br><br>Lewisham Health and Care Partnership, |

| | |
|---|---|
| | South East London Combined Heat and Power (SELCHP);<br><br>Catford Regeneration Partnership Ltd; and<br><br>any other bodies, which in the opinion of the Monitoring Officer, are of a similar nature<br><br>The making of all other appointments will be a non-executive responsibility |
| | |
| The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities | executive function |

# Part IV

# RULES OF PROCEDURE AND STANDING ORDERS


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

## A PURPOSE

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

## B COUNCILLORS

### 1 Term of office

The term of office for councillors is four years and they retire on the fourth day after the ordinary election when newly elected councillors come into office. The Mayor also serves for a term of four years. Mayoral elections will be held on the ordinary day of election for councillors, and the Mayor will also retire on the fourth day after the newly elected Mayor comes into office.

### 2 Entitled to speak and vote

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

### 3 Resignation

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

### 4 Vacation of office for non-attendance – all Councillors

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

### 5 Qualifying attendance- all Councillors

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

1. a meeting of any committee or sub committee of the Council;

2. a meeting of any joint committee, joint board, or other body by whom for the time being any of the functions of the Council are being discharged;

3. a meeting of any body appointed to advise the Council in any matter relating to any of its functions;

4. attendance as representative of the Council at any body of persons.

**6 Vacation of office – executive members**

Subject to certain exemptions set out in the Local Government Act 1972, if a member of the Executive fails for six months to attend any meeting of the Executive, then (unless the failure was due to some reason approved by the Council prior to the expiry of that period), he or she shall cease to be a member of the Council.

**7 Qualifying attendance – executive members**

The following actions are deemed to be attendance for the purpose of Rule 6 above:-

1. attendance as a member at a meeting of a committee of the Executive

2. the discharge by a member, acting alone, of any function which is the responsibility of the Executive

**8 Declaration of a vacancy**

Where a member of the Council:-

1. ceases to be qualified to be a member/Mayor of the Council; or

2. becomes disqualified from being a member of the Council other than under Section 34 Localism Act 2011 (disclosable pecuniary interests), or by a conviction or a breach of any of the provisions of Part II of the Representation of the People Act 1983 (election offences); or

3. ceases to be a member of the Council by the failure to attend meetings of the Council or the Executive;

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

**9 Filling of casual vacancy**

Unless the vacancy arises within six months of the date when the member would otherwise have retired, an election to fill a casual vacancy will be held within 35 days, calculated in accordance with the Local Government Act 1972,

from the date when notice in writing of the vacancy has been given to the proper officer by:-

1. in the case of councillors other than the Mayor, two local government electors for the borough (or the date of any declaration by the High Court that the office is vacant);

2. in the case of the Mayor, 2 electors, or the date of any declaration by the High Court declares that the office is vacant.

**10 Period of office**

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

**11. Declaration of acceptance of office**

Within two months of election, all members are required to declare their acceptance of office. Failure to do so will mean that the elected member ceases to be a member of the Council and a casual vacancy will arise.

**12 Declaration of interests**

Within 28 days of becoming a member, members must make a declaration of their interests for inclusion in the register of members' interests in accordance with the Code of Conduct attached to this Constitution at Part V (as amended from time to time), and agree to abide by the Council's Member Code of Conduct. It is the responsibility of individual members to ensure that their entry in the register of members' interests is up to date at all times.

Failure to register disclosable pecuniary interests may lead to prosecution. Failure to disclose other interests in the register as required by the Member Code of Conduct is likely to be a breach of the Code and lead to action by the Council's Standards Committee.

All members are also required to declare interests in relation to particular Council decisions in accordance with the contents of the Member Code of Conduct appearing at Part V. Participation in consideration of a matter where a Member has a disclosable pecuniary interest may lead to prosecution ,and in respect of other interests to action by the Council's Standards Committee.

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

## C COUNCIL PROCEDURE RULES

### 1 Types of meeting

There will be three types of Council meeting:-

- Annual Meeting
- Ordinary meetings
- Extraordinary meetings

### 2 The Annual Meeting

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

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

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

other committees as the Council thinks fit to deal with matters which are neither reserved to Council nor executive functions. Details of these delegations are to be included in the Council's Scheme of Delegation at Part VIII of the Constitution

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

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

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

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

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

**3 Ordinary meetings**

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

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

- To elect a person to preside if the Speaker and Deputy Speaker are not present

- To approve the minutes of the last meeting

- To receive any declarations from members

- To receive any announcements from the Speaker, the Mayor, members of the Executive or the Chief Executive

- To receive deputations and petitions, if any

- To receive questions from and provide answers to the public in relation to matters which, in the opinion of the Speaker, are relevant to the business of the meeting

- To receive Members' questions

- To deal with any business remaining from the last Council meeting

- To receive reports from the Council's committees and to receive questions and answers on those reports

- To receive reports about and questions on the business of any joint arrangements and external organisations to which the Council appoints representatives

- To receive reports from the Mayor (or his/her nominee) in relation to any key decisions which have been taken under the special urgency provisions (Part G Rule 19) and under the general urgency provisions (Part G Rule 18)

- To consider motions; and

- To consider any other business specified in the notice convening the meeting including but not limited to:-

  a) proposals from the Executive in relation to the Council's policy framework and budget
  b) reports referred by overview and scrutiny committees for debate
  c) any matters referred to the Council for conflict resolution

**3.3** Notice – The proper officer will call ordinary Council meetings, and will give notice in accordance with these rules.

**4 Extraordinary meetings**

**4.1** When and where? - Extraordinary meetings will take place at such time and location as the proper officer determines and gives notice in the summons, on the Council's website and its main office.

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

- To choose a person to preside if the Speaker and Deputy Speaker are not present

- To approve the minutes of the last meeting of the Council

- To receive members' declarations of interest if any.

- To receive such announcements or communications as the Speaker, Mayor or Chief Executive may wish to make.

- To receive Members' questions relevant to the business of the meeting, the relevance or otherwise of a question being a matter to be judged by the Speaker on advice from the Chief Executive.

- To receive reports of the Executive or Committee relevant to the business specified in the summons to the meeting.

- To consider motions.

- To consider any business specified in the summons to the meeting.

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

- The Council by resolution

- The Speaker or in his/her absence the Deputy Speaker

- The Mayor

- The Head of Paid Service, Monitoring Officer and/or Chief Finance Officer

- Any five members of the Council if they have signed a requisition which has been delivered to the Speaker if he/she has refused to call a meeting or has failed to call one within 7 days of the presentation of the requisition.

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

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

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

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

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

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

**5.3** In paragraph 5.2 above "authenticated" means signed or otherwise authenticated in such manner as the proper officer thinks fit.

## 6 Variations in the order of business at a Council meeting

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

## 7 Council Urgency Committee

**7.1** Business – This Rule sets out the procedure for dealing, between meetings of the Council, with matters which are urgent and cannot be delayed. Council Urgency Committee may only deal with matters which are urgent and cannot be delayed until a quorate meeting of the full Council can be properly convened. It may only deal with matters which can be lawfully delegated by the Council.

**7.2** Who? A Council Urgency Committee shall be established at the annual meeting of the Council and will consist of the Speaker, the Deputy Mayor, one member of the Executive other than the Mayor, the Chair of the Overview and Scrutiny Committee and 2, or the smallest number higher, of councillors required to ensure that the political balance of the Council is reflected. If present the Speaker will chair the meeting. If the Speaker is not present but the Deputy Speaker is present, he/she shall chair the meeting. If neither is present, the Urgency Committee will elect a chair for the meeting from among the non-executive members present.

**7.3** Quorum – The quorum for the Council Urgency Committee shall be three.

**7.4** Reason for urgency – Where in the opinion of the Chief Executive, a matter to be decided is so urgent that it cannot be delayed until the next meeting of the Council, a statement to this effect and the reason(s) shall be included in the item for decision by the Council Urgency Committee.

**7.5** Frequency of meeting – The Council Urgency Committee shall meet as often as necessary, to deal with business referred to it by the Chief Executive.

**7.6** Reports to full Council – Decisions made by the Council Urgency Committee shall be reported to the next meeting of full Council. Copies of all reports and or other papers considered by the Council Urgency Committee in arriving at any decision shall be made available to any member of the Council on request.

**7.7** Interregnum – During a year in which elections are held, in the period between the elections and the annual meeting of the Council, the Chief Executive or such person as may he may nominate in writing is entitled to act in respect of any urgent decision to be made by the Council.

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

**8. Who Presides at Council meetings?**

**8.1** If the Speaker is present at a meeting of the Council, then he or she must preside at the meeting.

**8.2** If the Speaker is absent, the Deputy Speaker will preside.

**8.3** If both the Speaker and Deputy Speaker are absent from a meeting of the Council, a councillor elected by the members of the Council present shall preside.

**8.4** Any power or duty assigned to the Speaker by these rules relating to the conduct of the meeting may be exercised by the person who presides at a meeting in the absence of the Speaker.

**8.5** References to the Speaker in these Rules shall include any person presiding at a meeting of the Council, its Committees/Sub- Committees.

**8.6** The ruling of the Speaker in relation to the interpretation or application of these Rules, or to any proceedings of the Council, shall not be challenged at any meeting of the Council, save by a majority of those present at the meeting, and then the matter shall be referred to the Chief Executive for a ruling.

## 9 The Mayor and Deputies at Council

**9.1** The Mayor shall be invited to attend all meetings of full Council and to address Council on any matter before it for consideration. Where the Mayor does wish to address full Council, if he so requests, he shall do so first, after the proposer and seconder in whose names a motion or amendment is brought, but before any other councillor.

**9.2** The Deputy Mayor and each member of the Executive nominated under Rule D5 and/or D6, within whose portfolio a matter falls, shall have the right to speak after the Mayor, should they wish.

## 10. Duration of Council meetings

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

**10.1** shall specify any remaining business which in his/her opinion, is of such a nature that it ought to be considered at an adjourned meeting, and any further report on that business which is to be presented to the adjourned meeting;

**10.2** shall ask the members present at the meeting whether in their view there is any other business which ought to be considered at an adjourned meeting. If there is a request that other business should also be adjourned, then the Council shall consider a motion, so long as it is duly proposed and seconded, that such business stand adjourned. This motion will be put to the vote without debate and if passed then the Speaker will specify the business as justifying adjournment;

**10.3** may then deal with any other business on the agenda, including any matter which in the Speaker's opinion requires the Council to pass a resolution at that meeting, requiring that those items be put to the vote without debate. No motion or debate shall be permitted on the exercise of the Speaker's discretion; and

**10.4** where he/she has specified any business as justifying adjournment, he/she shall declare the meeting adjourned to such date and time as he/she shall direct, or to a date to be notified. If there is no such business then the meeting shall be closed.

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

## 11 The Quorum for Council Meetings

**11.1** No business may be conducted at any Council meeting unless one quarter of the entire number of councillors is present.

**11.2** If, after 15 minutes from the time specified in the summons for the start of the meeting, there is still not a quorum present, the meeting shall not take place and shall be adjourned to a date to be fixed.

**11.3** If, during any meeting, it appears to the Speaker that there may not be a quorum present at the meeting, he/she shall count the number present at the meeting.

**11.4** Any councillor present at a meeting may ask the Speaker to count the number present to establish whether the meeting is quorate, and if so requested, the Speaker will conduct the count.

**11.5** If following the count, the Speaker is satisfied that there is not a quorum present, he/she shall declare that there is not a quorum, and the meeting shall be adjourned for ten minutes.

**11.6** If after that time there is still not a quorum present, then the meeting shall be adjourned

**11.7** Any business not transacted on account of the absence of a quorum shall be adjourned to a meeting at a time to be fixed by the Speaker, or if he/she does not fix a time to the next ordinary meeting of the Council.

## 12 Political group leaders

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

## 13 Questions by the Public at Council Meetings

**13.1** General – Questions may be asked by the public at ordinary Council meetings. They may be addressed to the Mayor, any member of the Executive or any relevant committee or sub committee chair.

**13.2** Order of questions – Questions will be asked in the order in which notice of them was received except that the Speaker may group together similar questions.

**13.3** Notice of questions – Written notice of questions must be received by the proper officer by midnight on the fifteenth day before the meeting. Each question must state the name and address of the sender. Copies of the questions will be sent to the Speaker, the Mayor, every member of the Executive, the Chair of the Overview and Scrutiny Committee, the Chair of the relevant Business Panel and the Chair of any relevant

committee. Written responses to questions will be sent to the sender by 5 p.m. on the working day prior to the meeting.

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

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

- It does not relate to a matter for which the Council has powers or duties, unless it is a matter which affects the interests of local people.
- It is defamatory, frivolous or offensive; or
- It is substantially the same as a question which has been put and answered at a Council meeting within the last three months; or
- It requires the disclosure of confidential or exempt information; or
- That responding to the question would entail disproportionate labour or cost; or
- That the question relates to the circumstances of an individual case; or
- It relates to any investigation by the Monitoring Officer or Standards Committee.

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

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

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

**13.7** At the meeting – The Speaker will announce that public questions are to be taken. He or she will state the name and address of the questioner and the name of the Mayor or the Councillor who has supplied a written answer.

**13.8** Supplementary questions – If the Speaker agrees, a questioner who has put a question may put one supplementary question to the member who

has replied. A supplementary question must arise directly out of the original question or the reply given to it.

13.9 Members of the public asking more than one question must number the questions they submit in order of preference (1st question, 2nd question, 3rd question etc).

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

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

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

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

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

**13.10** Absence of the questioner – If the questioner is not present or represented at the meeting, the Mayor/Member to whom the question was addressed will not be required to speak in response to the question, provided a written response has been given.

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

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

**14. Questions by members**

**14.1** General – At a Council meeting, members of the Council may ask questions that are relevant to the general work or procedure of the Council.

**14.2** Notice – Written notice of questions must be received by the proper officer by midnight on the fifteenth day before the meeting. The notice must indicate whether the member requires a written answer only. Copies of the questions will be sent to the Speaker, the Mayor, every member of the Executive, the Chair of the Overview and Scrutiny Committee, the Chair of the relevant Business Panel and the Chair of

any relevant committee. Written responses to all questions will be circulated by 5 p.m. on the working day prior to the meeting. No questions may be asked without notice except with the consent of the Speaker to whom the question will be put, on a matter of urgency of which the Speaker will be the judge. In such cases, the text of the question must be given to the Speaker in writing at least three hours before the meeting.

**14.3** Disallowing questions – Questions may be disallowed for the same reasons as those from the public and the proper officer may amend questions in the same circumstances and to the same effect as those from the public. (Rules 13(4) and (5) above.)

**14.4** Procedure – Questions about the work of the Executive will be replied to by the member of the Executive to whom it is addressed, or otherwise by the Mayor or the Executive member within whose area the subject matter of the question falls. In all other cases, questions will be replied to by the Speaker, or the Chair of the relevant committee.

**14.5** Copies – So far as possible printed copies of all questions and answers will be published at the Council meeting and copies supplied to each member of the Council. Questions will not usually be answered orally except where it has not been possible to publish the reply

**14.6** Discretion not to reply – The form of the answer is at the discretion of the Speaker, Mayor, relevant Executive member or committee chair who may decline to reply where to do so would involve excessive labour and/or cost.

**14.7** Detailed answers – Where a question put at a meeting requires a detailed answer requiring research it will not usually be given at the meeting. At the discretion of the member to whom the question is addressed or the Speaker such a question may be the subject of a written reply within 14 days of the meeting. A copy of the reply will be sent to all members.

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

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

**14.10** Members asking more than one question where they have reserved the right to ask a supplementary question, must number the questions they

submit in order of preference (1st question, 2nd question, 3rd question etc).

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

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

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

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

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

**14.11** Written questions – There is no limit on the number of questions a member may ask requiring only a written response which will be given in writing before the Council meeting.

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

**14.13** Questions about joint authorities/external bodies – Questions about the discharge of the functions of joint authorities or about the business of external organisations may be asked at ordinary meetings of the Council by any member for reply by any member who is a Council nominee on the joint authority/external body. Written notice of such questions must reach the proper officer by 10 a.m. on the Monday of the week in which the meeting is to take place. Only one such question may be asked by any member at any meeting.

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

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

## 15 Motions

**15.1** Motions on Notice - Except for motions which can be taken without notice under Rule 15.2 below, written notice of every motion shall be given by the member or members of the Council proposing the motion.

It shall be delivered to the proper officer not later than 10 a.m. on the sixth working day before the next meeting of the Council. The motion shall be dated on receipt, numbered in the order in which they are received and entered in a register, which shall be open to inspection by the public.

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

i. the appointment of a Speaker at the meeting at which the motion is moved;

ii. motions which relate to the minutes;

iii. to change the order of business in the agenda;

iv. to refer something to an appropriate body or individual;

v. to appoint a committee or member arising from an item on the summons for the meeting;

vi. to receive reports or to adopt the recommendation of committees or officers and any resolutions following from them;

vii. to withdraw a motion;

viii to proceed to next business;

ix that the question be now put;

x to adjourn a debate;

xi to adjourn a meeting;

xii that the meeting continue beyond two and a half hours in duration;

xiii to suspend a particular procedural rule;

xiv to exclude the public and press in accordance with the Access to Information Rules;

xvi to not hear further a member named under Rule C29 or to exclude them from the meeting;

xvii to give the consent of the Council where consent is required by this Constitution.

**15.3** Motion to rescind preceding resolution

i. Notice to be signed by 15 members – No motion to rescind any resolution passed within the preceding three months, and no motion or amendment to the same effect as one which has been rejected within the preceding three months, shall be proposed unless the notice given under rule 15.1 above is signed by at least 15 councillors.

ii. Only one rescission motion in three months – When any such motion or amendment has been disposed of by the Council, it shall not be open to any member to propose a similar motion in relation to the same matter within a further period of three months.

iii. Exception – This Standing Order shall not apply when the Council is considering a recommendation of a Committee.

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

**15.5** Relevance - Every motion must be relevant to some matter in relation to which the Council has powers or duties or which affects the interests of the people of the Borough. If the Council approves a motion which seeks to commit the Council to take action in respect of which only the Executive has power to make a decision, the matter will be referred to the Mayor and Cabinet for decision, which will be taken in accordance with this Constitution.

**15.6** Motions at extraordinary meetings – At an extraordinary meeting of the Council no motion will be admissible unless it is directly relevant to the business notified in the Summons to the meeting.

**15.7** Motions not moved – If a motion which is included in the summons is not moved either by the Member who gave notice, or by some other Member authorised by him/her in writing to the Speaker before the start of the meeting, it shall be considered as withdrawn and shall not be moved without fresh notice.

**15.8** Withdrawal of motion or amendment - A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council which shall be signified without discussion and no Member may

speak upon it after the mover has asked for its withdrawal unless permission has been refused.

**15.9** Amendment of motions – Amendments to motions must be received by 5 p.m. on the working day before the meeting. If the amendment requires a detailed assessment of the implications of the amendment which cannot be carried out in the time available, the Speaker may rule that the amendment is not put to the meeting.

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

**16 Rules of Debate**

**16.1** No speeches until seconded – A motion or amendment shall not be discussed unless it has been proposed and seconded.

**16.2** Right to require motion and amendment in writing - Neither motions nor amendments will be debated unless a written copy is available for all members of the Council present at the meeting.

**16.3** Right to nominate a seconder - The proposer of a motion has the right to nominate a seconder.

**16.4** Seconder's speech – The seconder of a motion or amendment has the right to reserve his/her speech until a later time in the debate but must declare his/her intention to do so. However, if a closure motion is successfully moved and the right to speak has not been exercised it will be lost.

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

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

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

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

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

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

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

**16.9** One amendment at a time - Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. If several proposed amendments are received before the deadline for submission, they will be considered at the meeting in the order in which they were received. However, if an amendment is carried, no subsequent amendments may be moved. The provisions contained in para 16.8 shall also apply to amendments

**16.10** If amendment is lost – If an amendment is lost, any further amendments received before the deadline for submission may be moved on the original motion in the order in which they were received.

**16.11** If an amendment is carried, - The motion as amended shall take the place of the original motion and shall become the substantive motion.

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

**16.13** Accepting amendments – If there is only one amendment proposed to a motion, the proposer and seconder of the original motion may agree to accept the proposed amendment and the amended motion shall become the substantive motion, without prejudice to the rights of the member proposing the original motion.

**17 Right of Reply**

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

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

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

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

**17.5** After reply – After the reply, the question shall be put without further debate.

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

**18 Motions which may be moved during debate**

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

(a) to amend the motion;

(b) closure motions;

(c) that a Member be not further heard;

(d) by the Speaker under Rule C29 that a Member leave the meeting;

(e) a motion under Section 100A of the Local Government Act 1972 as amended to exclude the public (disorderly conduct).

**19 Closure Motions**

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

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

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

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

(a) on a motion to proceed to next business:
subject to paragraph (e) below, he/she shall first give the mover of the original motion a right to reply to the motion to proceed to next business. The Speaker shall then put to the vote the motion to proceed to next business. If it is lost, the mover of the original motion shall retain his/her right of reply on that motion. Otherwise the meeting shall proceed to next business;

(b) on a motion that the question be now put:
subject to paragraph (e) below, he/she shall first put to the vote the motion that the question be now put. If it is passed the Speaker shall then give the mover of the original motion his/her right of reply on that motion before putting it to the vote;

(c) on a motion to adjourn the debate or the meeting:
subject to paragraph (e) below, he/she shall put the adjournment motion to the vote without giving the mover of the original motion his/her right of reply on that occasion. The mover shall however retain his/her right of reply when the debate is resumed.

(d) A motion to adjourn the debate may specify the time and date to when the debate is to be adjourned. Otherwise the adjournment will be to the next ordinary meeting of the Council. In the case of a motion to adjourn the meeting, the provisions of Rule 19 (3)(c) above will apply.

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

**20 Point of order**

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

**21 Personal explanation**

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

## 22 Voting

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

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

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

**22.4** Voting by Show of Hands - The Speaker shall first put the question on which a vote is required and shall then take a show of hands, or if there is no dissent, by the affirmation of the meeting. The result as announced by the Speaker shall be conclusive unless, on the announcement, ten or more members, by rising in their places, demand a division. In that case the procedure in paragraph 22.5 below shall be followed.

**22.5** Voting on a Division - If the Chief Executive declares that a division is called, then after one minute the doors of the Council Chamber shall be closed; the question before the Council shall be put again by the Speaker and, when so directed by the Speaker, the Chief Executive will call the name of every councillor who will record their votes by responding "For" or "Against" or "Abstain". The result of the voting shall be announced by the Speaker when all votes have been cast and will be recorded in the minutes.

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

**22.7** Voting on budget matters – When the Council makes a budget decision (whether original or substitute) the names of those who voted for and against the decision and those who abstained from voting shall be recorded in the minutes.

For the purposes of this rule, a budget decision is as defined in regulations requiring the recorded vote (SI 2014/165) and includes the following:-

- Calculation of the Council Tax requirement (Section 31A* )
- Calculation of the basic amount of Council Tax (Section 31B)
- Additional calculations for special amounts relating only to part of the area (Section 34 and 35)
- Calculation of Tax for different valuation bands (Section 36)
- Substitute calculations (Section 36A)
- The calculation of substitute amounts of Council Tax to apply in the event of a referendum not approving a Council Tax increase in excess of limits set by the Secretary of State (Section 52ZF)

*All of the references to sections in the list above relate to sections of the Local Government Finance Act 1992.

For the purposes of this rule, a budget decision includes a vote on any decision related to the making of the calculation.

When the Council sets the Council Tax base and agrees the National Non Domestic Rate for the area, a recorded vote will take place.

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

**22.9** Where the Council is appointing to more than one position (eg where the Council appoints two representatives to an outside body), and there are more nominees than positions to be filled, the procedure in 22.8 above will be used to appoint representatives one at a time. Once the first representative has been appointed, the same procedure will be used again to appoint the second and any further representatives until all appointments have been made.

## 23 Minutes

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

**23.2** Before signing the minutes, the Speaker must ask the Council whether the minutes are approved as a true record.

**23.3** No discussion shall take place on the minutes except on their accuracy, and any question of their accuracy shall be raised by way of motion to amend the minutes. If no such question is raised or, if it is raised, as soon as it has been disposed of, the Speaker shall sign the minutes.

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

**24 Notice of Council meetings**

**24.1** Five clear days before any meeting of the Council the proper officer shall publish, at the offices of the Council, a public notice of the time and place of the intended meeting. Where the notice relates to a meeting of the Council called by members of the Council pursuant to Rule C4(3) above, the notice shall be signed by those members and shall specify the business proposed to be transacted and a summons shall be sent to the Mayor and each member of the Council in accordance with Rule C (5) (2) above.

**24.2** If the Mayor or any member gives notice in writing to the proper officer that he/she wishes summonses to attend meetings of the Council to be sent to him/her at an address other than his/her usual place of residence, any summons so addressed and left at or sent by post to that address shall be deemed sufficient service of the summons

**24.3** No business shall be transacted at a meeting of the Council, other than that specified in the summons, subject to the provisions of Rule 25 (Urgency) below.

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

**25 Urgency**

**25.1** Exceptionally a report on a matter of such urgency arising within a very short period before a Council meeting may be considered at a Council meeting notwithstanding that the report has not been included in the summons to the meeting. This may arise where the matter in question is of such urgency that it cannot be delayed to the next ordinary Council meeting. In such circumstances it may be submitted to the Council as an urgency report.

**25.2** The subject of an urgency report if known, shall be included in the summons to the meeting even though the report may not be available. In such cases the report may be sent to the Mayor/members separately.

The report shall contain a statement of the reasons why it needs to be considered as a matter of urgency.

**25.3** If the report is sent so late that it is generally received less than five clear days before the Council meeting, the Speaker shall decide on the grounds of urgency stated, whether or not the report shall be considered or deferred to a later meeting. If it is considered, the reasons for it being considered as a matter of urgency shall be recorded in the minutes.

**26 Record of Attendance**

The Council will keep an attendance book to record the attendance of all members at meetings of the Council. The attendance book will be available in the meeting room for the duration of the meeting. Every member of the Council who attends a meeting of the Council shall sign his/her name in it when they attend.

**27 Admission of the Public and the Press**

**27.1** All meetings of the Council shall be open to the public, subject to accommodation being available and subject to 27.4 below and to the Protocol appearing at Appendix 3 to this Constitution. The provisions of the Openness of Local Government Bodies Regulations 2014 shall apply. They confer rights on members of the public to record executive and non-executive meetings which are open to the public. Anyone attending a Council meeting which is open to the public may only record proceedings in accordance with the Protocol at Appendix 3.

**27.2** Duly accredited representatives of the media who attend to report Council proceedings for those organisations will be ` accommodated to the limit of the capacity set aside for them.

**27.3** Cameras, including television cameras, mobile phone cameras and video and recording equipment shall not be used in the Council chamber or in any meeting of its committees or sub-committees except in accordance with the protocol at Appendix 3

**27.4** The Council, committee or sub-committee may pass a resolution at any time excluding the public (including press representatives and friends of members), from any meeting during an item of business whenever it is likely, in the view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosure to them of exempt or confidential information as defined in Section 100A and 100.I of the Local Government Act 1972. These definitions are reproduced as Appendix 1 to these rules.

**27.5** Where a resolution is passed to exclude the public because of the likely disclosure of exempt information, it shall identify the part of the proceedings to which it applies and the description of the exempt information in terms of Schedule 12A of the Local

Government Act 1972 (see Appendix 1).

**28 Adjournments**

**28.1** The Council may adjourn any Council meeting to such day and time as it thinks fit. Unless the adjournment is to the next ordinary meeting of the Council the only business to be considered at the adjourned meeting shall be that which appeared in the summons for the meeting that was adjourned, but was not disposed of. However, at the meeting which is adjourned the Council may call for a further report on any matter not disposed of at that meeting.

**28.2** If an adjourned meeting is not reconvened within three days of the adjournment, a summons to attend shall be sent to all members of the Council in accordance with Paragraph C (5) (2) above.

**29 Disturbance and Misconduct**

**29.1** If a member of the public interrupts the proceedings at any meeting of the Council, the Speaker shall warn him/her. If he/she continues with the interruption, then the Speaker shall order his/her removal from the Council Chamber. In the case of a general disturbance, the Speaker may order that any part of the Chamber be cleared.

**29.2** In the event of a disturbance which renders the orderly conduct of business impossible, the Speaker may at his/her discretion, suspend the meeting of the Council for such period as he/she considers expedient, or adjourn the meeting to a later time or date.

**29.3** If because of the nature of disturbance, the Speaker is of the view that it is not possible to continue with the business of the meeting in public, the meeting may nevertheless continue in private, provided that on resumption of the meeting in private, the Speaker puts a proposal to the meeting that it continue in private because of the disturbance, that proposal is seconded and the Council passes a resolution to that effect before conducting any further business.

**29.4** No member of the Council shall persistently disregard the ruling of the Speaker, behave irregularly, improperly or offensively, or wilfully obstruct the business of the Council. If the Speaker considers that a member of the Council has misconducted him/herself in such a way, then he/she shall say so to the Council. Then the Speaker or any other member may move that the member should be excluded from further debate. If the motion is seconded, then it shall be taken without debate.

**29.5** If the member continues his/her misconduct after such a motion has been carried, the Speaker may move that the person concerned be required to leave the Council Chamber. In that case the motion shall be

taken without seconding or debate. The Speaker may also suspend the meeting for such period as he/she thinks fit.

**30 Vacancies etc not to invalidate proceedings**

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

**31 Application of rules to committees, sub committees and executive**

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

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

Rules 5, 6, 10, 23, 24, 25, 26, 27, 28,29 and 30 of these Council Procedure Rules will apply to meetings of the Executive unless the law or this Constitution expressly provides to the contrary. Rule 22.1, 22.3,22.4 and 22.7 will apply to meetings of the Executive where the Mayor has delegated decision making to the Executive acting together, or a committee of the Executive.

**32 The Health & Wellbeing Board (HWB)**

**32.1** The Terms of Reference and composition of the HWB are set out at Article 9.4. The Health and Social Care Act 2012 and regulations made under it provide that the HWB is a committee of the Council and so it is subject to all of the provisions applying to all committees of the Council, save to the extent that the law disapplies these provisions.

**32.2** The following particular provisions apply to the Council's Health & Wellbeing Board.

(a) Its membership does not have to reflect the political composition of the Council.

(b) Following consultation with the HWB the Council has resolved:

(1) that where its officers are appointed to the HWB, they will not be entitled to vote.

(2) That where an organisation (Clinical Commissioning Group, Healthwatch, or otherwise) appoint an employee to the HWB that employee will not be allowed to vote. This rule will not apply to representatives of the voluntary sector appointed by the Council.

(c) People who are disqualified from membership of the Council are not disqualified from membership of the HWB, unless they are disqualified by virtue of a bankruptcy restrictions order or criminal conviction.

(d) The HWB may appoint sub-committees to carry out its statutory functions or delegate those functions to an officer. Where the Council delegates other non-statutory functions to the HWB, the HWB may delegate those functions to a sub-committee or officer of the Council. A sub-committee may further delegate to an officer unless the Council directs to the contrary.

(e) Quorum - The quorum for meetings of the HWB shall be as follows:-

3 voting members of the HWB, at least one of whom must be a member of the Council and one must be a representative of the Clinical Commissioning Group.

(f) Decisions – shall be taken at the HWB by a majority of those present, entitled to vote and voting.

(g) Chair and Vice Chair – The Chair of the HWB shall be the Mayor or such other Councillor as the Mayor may nominate to act as Chair; The Vice-Chair of the HWB shall be elected at the first meeting of the HWB in each year.

(h) Other provisions relating to the conduct of business at Council Committees shall apply to the business of the HWB to the extent that they do not contradict the provisions of this section.

(i) Provisions relating to notice of meetings, minutes, agendas, record of attendance, admission of the press and public, adjournments, disturbance, vacancies as well as the general rules of debate set out in this Constitution will apply.

(j) In addition the Council's Member Code of Conduct in force from time to time will apply to all members of the HWB, who will comply with that Code and all the requirements in relation to it set out in this Constitution.

**33. Meetings in the context of COVID 19**

***The Coronavirus Act 2020 made provisions to allow Council business to continue in the context of the COVID - 19 pandemic in which personal attendance at meetings risked the spread of the virus. The following provisions in this section apply where the Council is legally permitted to hold remote meetings. They override any other provisions in this Constitution which would in other circumstances have prevented remote meetings.***

**33.1 No Requirement to Hold an Annual Meeting**

The requirement to hold an Annual Meeting is to be disregarded and, prior to 7th May 2021, an Annual Meeting of Council may only take place:

(a) where called by the Speaker; or
(b) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of Council.

**33.2 Access to Information**

For all purposes of the Constitution, the terms “notice”, “summons”, “agenda”, “report”, “written record” and “background papers” when referred to as being a document that is:

(a) “open to inspection” shall include for these and all other purposes as being published on the website of the Council; and

(b) to be published, posted or made available at offices of the Council shall include publication on the Council’s website.

**33.3 Remote Access to Meetings**

(a) For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:

(i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers: and

(ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and

(b) If the Chair is made aware that a meeting is not accessible to the public through remote means at any time when it is legally required to be accessible to the public, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

**33.4 Members in Remote Attendance**

(a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:

(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.

(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and

(iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 4(a) above are not met. In such circumstance the Chair may, as they deem appropriate:

(i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in 4(a) above to be re-established;

(ii) count the number of Members in attendance for the purposes of the quorum; or

(iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

**33.5 Remote Attendance by Members of the Public**

(a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:

(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;

(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and

(iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 5(a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:

(i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in 5(a) above to be re-established;

(ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or

(iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

**33.6 Remote Voting**

Unless a recorded vote is demanded, which may be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chair, the Chair will take the vote, where there are such facilities, by use of an electronic voting system for remote voting.

Where there is no electronic voting system available or it is not working correctly then the vote may be taken by the affirmation of the meeting if there is no dissent, by assent.

Alternatively the Chair may take the vote by roll-call and the number of votes for and against the motion or amendment and abstaining from voting will be recorded.

**33.7 Members excluded from the meeting**

Where a Member is required to leave the meeting, the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business which the member or co-opted member may not participate.

# D EXECUTIVE PROCEDURE RULES

## 1 Terms of reference

The Mayor will have responsibility for all executive decisions, namely those decisions not reserved to Council or delegated by Council or required to be so by law.

## 2 Constitution

(a) Generally

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

(b) Confirmatory hearings

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

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

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

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

Immediately after each proposed appointee has spoken, questions may then be put by councillors to the proposed appointee. After questions have been asked of each proposed appointee, the meeting will be asked to register by show of hands whether they support the appointment of that particular member to the Executive as proposed by the Mayor. The choice will be a simple yes or no.

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

**3 Who may make executive decisions?**

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

- The Executive as a whole
- A committee of the Executive
- An individual member of the Executive
- An officer
- An area committee
- A joint committee
- An individual ward member, to the extent the function is exercisable within the ward
- Another local authority or its executive in accordance with relevant regulations

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

**4 A Mayoral Scheme of Delegation**

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

(i) The names, addresses and wards of the people appointed to the Executive by the Mayor.

(ii) The nature and extent of the authority delegated to the Executive acting collectively as a whole, including details of any limitation on the delegated authority

(iii) The nature and extent of the authority delegated to committees of the Executive, including the constitution and terms of reference of any such committees appointed, and the names of the Executive members who are to serve on them, and details of any limitation on their delegated authority

(iv) The nature and extent of any authority delegated to individual members of the Executive, including the names of the people to

whom such power has been delegated and details of any limitation on the delegated authority

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

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

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

**5 Sub-delegation of Executive functions**

(a) If the Mayor delegates functions to the Executive, unless he/she decides otherwise, the Executive may delegate further to a committee of the Executive, an area committee, to an officer, to any joint arrangements, or to another authority.

(b) If the Mayor delegates executive functions to a committee of the Executive, the Committee may delegate further to an officer of the Council or an area committee.

(c) If the Mayor delegates executive functions to an individual member of the Executive, that member may delegate further to an officer or an area committee.

(d) Where executive functions have been delegated, that fact does not prevent the discharge of those functions by the person or body who delegated them.

**6 The Council's scheme of delegation and executive functions**

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

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

- The Mayor may amend the Mayoral scheme of delegation of executive functions at any time during the year. To do so the

Mayor must give written notice to the proper officer and report those changes to the next ordinary Council meeting. When the Mayor seeks to amend or withdraw delegation to a committee, he/she must give notice to all members of that committee.

- The notice to the proper officer will set out the extent of the proposed amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee of the Executive or the Executive as a whole. It must also set out details of the nature and extent of any alternative delegations made to any person, body, committee of the Executive, or the Executive as a whole. The amendment will take effect on the date when the proper officer gives notice to all councillors to that effect.

**7 Executive spokespersons**

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

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

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

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

**8 Assistants**

The Mayor may invite non-Executive members of the Council to act as Assistants to the Executive in any year. There may be up to one Assistant for each of the portfolios established within the Executive. The Assistant would be a point of liaison between an Executive portfolio holder and the non-Executive members of the Council in relation to any matter within the portfolio holder's area, but they would have no formal decision making powers. The Assistant would not be obliged to accept the Mayoral invitation. Holders of the following positions may not become Assistants to the Executive

- The Speaker
- The Mayor

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

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

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

**9 Conflicts of interest**

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

If a decision falls to be made by the Mayor alone or an individual member of the Executive and that person has an interest which would prevent participation in consideration of the matter under the Member Code of Conduct, then he/she may not take the decision, or consider the matter further on an individual basis. The matter must be delegated elsewhere. Similar provisions apply where an executive decision is to be taken by an individual ward member, save that the decision may also be taken by the Mayor, unless he/she also has such an interest in it.

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

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

**11 Executive meetings in public or private**

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

(b) Subject to the exemptions relating to confidential and exempt information, the Executive may only meet in private if a lawful power has been used to exclude a member or members of the public, or where admission of the public would be likely to result in a breach of a legal obligation to a third party about the keeping of confidential information.

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

**12 Quorum**

The quorum for a meeting of the Executive or a committee of it will be one quarter of the total number of people on the Executive, or 3, whichever is the larger. However, a meeting of the Executive or a committee of it will not be quorate if neither the Mayor nor Deputy Mayor is present unless five other members of the Executive are present.

**13 How are decisions to be taken by the Executive?**

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

All decisions made by members must be recorded by the proper officer in accordance with Rule G22 (record of decisions) and the decision will not be deemed to be made until such a record is made and publicised in accordance with Rule 18 below.

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

**14 Who may attend Executive meetings?**

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

Any member who has been appointed by the Mayor to the Executive for part of a year may nonetheless attend Executive meetings during the

time when he/she does not so serve. At the invitation of the Mayor such member may make a presentation to the Executive and/or speak on any matter being considered by it. However, no member may vote on any matter being considered by the Executive except during the period for which he/she has been appointed by the Mayor to serve on the Executive.

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

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

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

(a) consideration of the minutes of the last meeting;

(b) declaration of interests if any;

**(c)** matters referred to the Executive (whether by the Overview and Scrutiny Committee, its Business Panel, a select committee, a joint select committee, any task and finish group or the Council) for reconsideration or response by the Executive in accordance with the rules relating to call in or the councillor's call for action or any other provisions contained in the Overview and Scrutiny Procedure Rules, or the Budget and Policy Framework Procedure Rules set out in Part IV of this Constitution;

(d) consideration of reports from overview and scrutiny select committees or the Business Panel(s);

(e) consideration of reports from local assemblies and/or from Positive Ageing Council.

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

**16 A programme of business**

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

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

## 17 Decisions at meetings of the Executive

(a) Where the Mayor has delegated decision making to the Executive acting collectively, or to a committee of the Executive, decisions will be taken if agreed by a majority of those present and voting. The meeting will be chaired by the Mayor if present, or by the Deputy Mayor if not. If neither is present then the meeting will be chaired by the member nominated by the Mayor to do so, or in the absence of such a nomination, by the member elected by the meeting to do so.

(b) If the Mayor has previously indicated to the proper officer that the Executive acting collectively may not make a decision under delegated authority, the proper officer will give notice to that effect to all members of the Executive, and in such cases the Mayor will make the decision himself usually at a meeting convened as if the decision was to be taken by the Executive collectively. If it is not practical for such a meeting to be convened, the Mayor may nonetheless make the decision himself on the basis of a written report containing service, corporate, legal and financial implications at a time and place at which notice has been given in accordance with the Access to Information Rules at Part G and at which the Head of Paid Service, Chief Finance Officer and/or the Monitoring Officer and/or their nominee are present.

## 18. Publication of decisions

(a) Within 2 working days of an Executive decision being taken it shall be published by the proper officer at the Council's main offices and sent to all members of the Council, where possible by electronic means. Decisions will also be set out in a central record by the proper officer which will be available to all members of the Council and the public.

(b) The period during which any decision may be 'called in' under these Procedure Rules (see Part E Rule 18) will only begin to run when notice of a decision has been published at the Council's main offices in accordance with this rule.

## 19 Consultation

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

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

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

(a) The Mayor

(b) Any member of the Executive

(c) The proper officer will ensure that an item is placed on the agenda for the next available meeting of the Executive if so requested by the Business Panel, by the Council or by the Overview and Scrutiny Committee or any relevant sub-committee in response to a referral made under this Constitution. Such items will be placed on the agenda in the order in which the request is made of the proper officer that they be so considered and there may only be two such items on the agenda of any Executive meeting unless the Mayor agrees to the contrary.

(d) Any member of the Council may request the Mayor to put an item on the agenda for an Executive meeting. If the Mayor agrees, the item will be considered at the next available Executive meeting. The agenda will state that the item was referred to the Executive at the request of the individual member and will state the name of the member concerned who will be invited to attend the meeting and to address the Executive on the issue in question.

(e) The Head of Paid Service, Monitoring Officer and/or the Chief Finance Officer may include an item for consideration by the Executive.

(f) Local assemblies. Restricted to a maximum of two such items on any agenda, items will be prioritised in the order they are received. Any not placed on the agenda will have priority for the next agenda, subject always to the maximum of two such referrals per agenda. Only one referral may be made by any local assembly to the Mayor and Cabinet in any twelve month period, unless the Mayor agrees to the contrary.

(g) The Positive Ageing Council may make referrals to the Mayor and Cabinet provided that the referral has been approved by a general meeting of the Positive Ageing Council.

(h) The Young Mayor may make referrals to the Mayor and Cabinet, subject to a maximum of one in any twelve month period, unless the Mayor agrees to the contrary.

**21 Part year membership of the Executive**

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

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

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

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

The Mayor and Deputy Mayor (in respect of any executive function) and any other Executive member (in respect of any executive function within their portfolio) may be required to attend any meeting of the Overview and Scrutiny Committee, or any of its select committees or the Business Panel. If so required they will attend to give account for Executive action and/or performance as set out in Rule E 17. (OSC power to require attendance). Similar provisions apply to individual ward members to whom the Mayor has delegated decision making powers within their ward.

## E - OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. Arrangements for overview and scrutiny

The Council will have an overview and scrutiny committee as set out in Article 6 of the Constitution and will appoint to it as it considers appropriate from time to time. The Overview and Scrutiny Committee will appoint the select committees, Business Panel, Education Business Panel 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

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

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 Sub Committees thereafter during that year. No member may be involved in scrutinising a decision which he/she has been involved in making.

### 4. Co-optees

Save for the Safer & Stronger Communities Select Committee, the Council's arrangements for overview and scrutiny do not currently provide that co-optees may be appointed to its overview and scrutiny committee, its select committees or Business Panel. Subject to legislation to the contrary, co-optees on any overview and scrutiny committee or sub-committee or Business Panel, may not vote, unless the Council approves a scheme permitting co-optees to vote in accordance with paragraphs 11 of Schedule A1 Local Government Act 2000 as amended or other relevant legislation in force from time to time.

Diocesan and governor representatives are appointed to the Education Business Panel and the Children & Young People Select Committee. By law they have voting rights.

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

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

**5. Education representatives**

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

**6. Meetings – where and when**

There will be at least 1 meeting of the main overview and scrutiny committee per year, and generally at least 3 and no more than 5 meetings of the select committees per year. Meetings will take place at such times and locations as the proper officer thinks fit. Meetings of the overview and scrutiny committee, a select committee, Business Panel and the Education Business Panel or a task and finish group may be called by:-

(a) The chair of that committee, select committee or Business Panel

(b) Any five members of the relevant committee, select committee, task and finish group, or Business Panel by request in writing to the proper officer

(c) The Head of Paid Service, Chief Finance Officer or Monitoring Officer

**7. Quorum**

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

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

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

also be Vice Chair of the Business Panel and the Education Business Panel.

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

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

Neither the Speaker nor the Deputy Speaker, education and parent/representatives nor any co-optee may chair the overview and scrutiny committee, a select committee or the Business Panels.

**9. Work programme**

(a) At the beginning of the municipal year, each select committee will draw up a draft work programme for that year. In doing so it will specifically take into account the views of members of that select committee who are not members of the largest political group. The select committee will submit the draft to the Business Panel for consideration normally by the end of May each year.

(b) The Business Panel will then consider the proposed work programmes of each of the select committees and devise a co-ordinated overview and scrutiny work programme which avoids duplication of effort and facilitates the effective conduct of business. The Business Panel may amend the work programme of any of the select committees but will not normally do so unless it is necessary to ensure the effective conduct of Council business. Once the Business Panel has approved the select committee work programme, the select committee will implement it.

**10. Agenda items**

(a) <u>Members of the Committee/Sub-Committee/Business Panel</u>

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

(b) <u>The Council and/or the Executive</u>

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

(c) Local Assemblies may ask the overview and scrutiny committee to address issues of concern in their locality. Where they do so, the matter will be referred by the Business Panel to the appropriate select committee for response if the Business Panel considers that it is appropriate to do so.

(d) Members who are not members of the Overview and Scrutiny Committee/Sub-Committee/Business Panel - The Councillor Call for Action

Any member may refer to an overview and scrutiny select committee or Business Panel of which they are not a member, any matter relevant to its work, provided it is not an excluded matter. In deciding whether to do so, the member must first have regard to any guidance issued by the Secretary of State.

For the purpose of this paragraph, excluded matters are those:-

(i) relating to Planning decisions;
(ii) relating to Licensing decisions;
(iii) relating to a matter in respect of which the person has a right of recourse to review or a right of appeal under any enactment;
(iv) which are vexatious, discriminatory or not reasonable to be included on the agenda, or discussed at, a meeting of the overview and scrutiny committee/sub-committee/Business Panel.
(v) A local crime and disorder matter (which is subject to separate provisions see paragraph 22 below).

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

**11. Councillor Call for Action procedure**

(a) In deciding whether to exercise its powers in relation to a referral under paragraph 10(d) above, the overview and scrutiny committee/select committee/Business Panel may have regard to any powers exercisable by the member under Section 236 Local Government and Public Involvement in Health Act 2007 (exercise of functions by councillors) and any representations by the member as to why it is appropriate for the committee/sub-committee/Business Panel to exercise its powers.

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

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

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

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

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

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

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

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

(e) 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**

This paragraph applies to

(1) the publication of any document which is:-

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

- the Executive and/or Council response to that report/recommendations

(2) the provision of any such document to

- a member who referred the matter to the overview and scrutiny committee committee/select committee/Business Panel,; or

- the provision of such a document to a partner authority.

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

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

For the purpose of this paragraph 13, exempt and confidential information have the meaning set out in Section 100A and 100I 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 and the Business Panel may request in writing such information of relevant partner authorities as is reasonably required to discharge their functions in relation to the area and its inhabitants. Subject to certain exceptions set out by law from time to time, the relevant partner authority must respond.

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

14.3 Where it does so, the overview and scrutiny committee/select committee/Business Panel may give written notice to the partner authority requiring it to have regard to the report/recommendations in exercising its functions. Such notice must be accompanied by a copy of the report/recommendations and it will be the duty of the partner authority to comply with the notice.

14.4 'Relevant partner authority' means any person which is a partner authority for the purposes of Chapter 1 Part 5 Local Government and Public Involvement in Health Act 2007 other than a chief officer of police.

14.5 Paragraph 14.2 does not apply to a health body (ie NHS Trust, NHS foundation trust or a primary care trust) if the report has been given to that body under provisions relating to the scrutiny of health (see paragraph E23 below).

14.6 This paragraph 14 does not apply to a report/recommendations about a crime and disorder matter under Section 19 Police and Justice Act 2006 about which there are separate provisions applying to overview and scrutiny (see E 22 below).

**15. Policy review and development**

(a) The role of the overview and scrutiny committee and its select committees and the Business Panel in relation to the development of the Council's budget and policy framework is set out in detail at Section F of this Part IV, the Budget and Policy Framework Procedure Rules.

(b) The overview and scrutiny committee, or as appropriate its select committees and/or the Business Panel may also make proposals to the Executive for development of strategic policy matters that do not form

part of the policy and budget framework in so far as they relate to matters within their terms of reference.

(c) Overview and scrutiny select committees and the Business Panel may make enquiries and investigate the options for future direction in policy development and may appoint 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.

(d) Once the overview and scrutiny select committee or Business Panel has formed recommendations for development of policy, it will submit that report to the Executive for consideration. As soon as reasonably practicable after receiving the report (usually within 6 weeks) the Executive will consider the report together with a report from the relevant Executive Director(s), or their nominee(s), setting out officers' comments on the recommendations or proposals and their proposed response to the select committee or Business Panel. The referring Select Committee or Business Panel will be advised at their next meeting of the date upon which the Executive is programmed to consider the proposed response. The formal response approved by the Executive will then be referred back to the next available meeting of the Select Committee or Business Panel. If the recommendations would entail a change to the policy framework or the budget, then those changes can only be effected with the approval of Council.

(e) The agenda for each Executive meeting will include an item “Issues referred by Overview and Scrutiny”. Reports from the select committees and/or the Business Panel will be included at this point, unless they have been considered in relation to a substantive item on the agenda within one month of the receipt of the report from overview and scrutiny.

(f) If the Mayor has not delegated powers in relation to the matter which is the subject of an overview and scrutiny report, or where he/she has delegated power to 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.

(g) 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 and/or Business Panel may have views which it wishes to

express on an up and coming matter. Where this is the case, a copy of those views will be given to the proper officer at least 10 days before the Executive is due to make a decision on the matter in question. The proper officer will ensure that those views are brought to the attention of the decision maker before the decision is made. The record of the decision will specifically deal with the decision maker's response to the overview and scrutiny comments.

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

(a) In addition to their rights as councillors, members of the overview and scrutiny committee have additional rights to documents, and to notice of meetings set out in the Access to Information Rules at part G.

(b) Nothing in these Rules prevents liaison between the Executive and select committees/Business Panels as appropriate.

**17. Members and officers giving account**

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

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

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

(b) In addition, those officers listed in the Council's Petition Scheme (appearing at Appendix 2 to the Constitution) may also be required to attend before a relevant overview and scrutiny committee, sub-committee or Business Panel in accordance with that scheme.

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

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

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

**18. Call In**

(a) Executive decisions made at a meeting of the Executive; and

Executive decisions made by an individual member:

will be deemed to have been made only when made in the presence of either the Head of Paid Service, Chief Finance Officer, Monitoring Officer or their duly authorised nominees and the decision has been recorded and published.

(b) When an executive decision is made by

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

the decision will be published by the proper officer on the Council's website, including where possible by electronic means, and will in any event be available at the Council's main offices, within two days of being made. Copies of the decisions will be sent to all members of the Council's Business Panel within the same timescale by the proper officer. If the decision relates wholly or partly to an education function of the Executive such notice will be sent to all Members of the Education Business Panel. The requirements of this paragraph shall however not apply to decisions taken by Council 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)

(c) The notice will bear the date on which it is published and will specify that the decision will come into force on the expiry of seven working days after the publication of the decision unless the relevant Business Panel objects to it and within that period resolves to ask the decision maker to re-consider (call in). However if the decision has been taken in accordance with Rule 19 below, it will be effective on publication of notice that it has been made.

(d) The proper officer shall convene a meeting of the relevant Business Panel to take place normally once every 15 working days. He/she will refer executive decisions to the next meeting for consideration if so requested in writing by the Chair or Vice Chair of the relevant Business Panel, any three members of it, or any five members of the overview and scrutiny committee. All such requests must be received by the proper officer by noon on the working day before the meeting. If no such request is made then the arranged meeting of the Business Panel or Education Business Panel will be vacated unless there is other business to be conducted at it. The proper officer will notify members of any vacated meeting by electronic means and arrange for the publication of a cancellation notice on the Council website and at the Council's main offices. Decisions that are not referred to the relevant Business Panel will automatically become effective on the expiry of the seven working day period. The Mayor (or other decision maker) will be entitled to attend the meeting of the Business Panel at which a decision made by them is under consideration for call in.

(e) If an executive decision is called in within the seven day period, then the decision shall not be implemented pending the conclusion of the call in procedure.

(f) When the relevant Business Panel considers the Executive decision it may either:-

- Take no action, in which case the decision becomes effective on the conclusion of the Business Panel meeting at which it was considered; or

- Refer the matter back to the decision maker for reconsideration.

- If the Business Panel does not wish the decision maker to reconsider but nonetheless wishes to make comments to the decision maker which fall short of a request to reconsider, it may do so. However the referral of such comments to the decision maker will not require them to reconsider their original decision which will be effective at the close of the Business Panel meeting.

- Refer the matter to full Council, if it appears that the decision which the Executive has taken is contrary to the policy framework, or contrary to or not wholly consistent with the budget.

(g) When the Business Panel meets to consider whether to call in an executive decision it may request the decision maker to attend to explain the decision. Wherever possible, the decision maker will attend.

(h) Where the relevant Business Panel refers the matter back to the decision maker 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.

(i) 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. The Chair (or in his/her absence the Vice-Chair) of the Business Panel calling in any decision will be entitled to attend and speak at any meeting of the Mayor and Cabinet at which the original decision is being re-considered. If the decision was made by the Mayor acting alone, or by an individual member of the Mayor and Cabinet, or an individual officer, the Chair (or in his/her absence the Vice-Chair) of the relevant Business Panel may attend when that person reconsiders their decision, to address them before their further decision is made.

(j) If the matter is referred to Council, then:-

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

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

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

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

**19. Call In and Urgency**

(a) The call in procedure set out in Rule 18 above shall not apply where the decision being taken is urgent. A decision will be urgent if the delay likely to be caused by the call in process would seriously prejudice the interests of the Council or the public. The Speaker, and in his/her

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 his/her nominee is required. Decisions taken as a matter of urgency under this Rule must be reported to the next ordinary meeting of the Council together with the reason for urgency.

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

**20. The party whip**

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

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

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

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

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

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

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

- The investigation will be conducted so as to maximise the efficiency of the investigation or analysis.

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

### 22.1 Definitions

For the purposes of these procedure rules:-

"responsible authority" means those defined as such by S5 of the Crime and Disorder Act 1998 and any amendments thereto from time to time, 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 Remit

The Council appoints an overview and scrutiny committee or sub committee to fulfil the overview and scrutiny function in relation to the discharge by responsible and co-operating persons/bodies of their crime and disorder functions, as required by S19 Police & Justice Act 2006 as amended from time to time, and all other relevant legislation. The overview and scrutiny select committee with these functions is the Safer Stronger Communities Select Committee (see art 6.6).

### 22.3 Co-optees

The Safer Stronger Communities Select Committee may co-opt additional members to serve on that select committee. Any such co-optee is not entitled to vote on any particular matter unless the Select Committee so decides and it may only do so in accordance with a co-option scheme agreed by the Council. A co-optee's membership may be limited to the exercise of the select committee's powers in relation to a particular matter or type of matter.

### 22.4 Withdrawal of co-option

Membership of a person co-opted to serve on the Safer Stronger Communities Select Committee may be withdrawn at any time by the select committee.

### 22.5 Request for information

The Safer Stronger Communities Select Committee may make a written request to a responsible body or co-operating person or body for information relating to

(a) the discharge, or decisions made or other action taken in connection with the discharge of their crime and disorder functions, or

(b) local crime and disorder matters in respect of which the select committee has overview and scrutiny functions by virtue of s19 of the Police and Justice Act 2006.(see para 22.10 below)

**22.6 Supply of information**

Where a written request is made for information, the responsible authority/co-operating person or body must provide the requested information. It should be supplied no later than the date indicated in the request, but if some or all of the information cannot reasonably be provided by such date, it must be provided as soon as reasonably possible.

**22.7 Nature of information to be provided**

The information provided

(a) must be de-personalised unless the identification of an individual is necessary or appropriate to enable the Safer Stronger Communities Select Committee to properly exercise its powers; and

(b) shall not include information that would be reasonably likely to prejudice legal proceedings or current or future operations of the responsible authorities, whether acting together or individually, or of the co-operating person or bodies.

**22.8 Attendance**

The Safer Stronger Communities Select Committee may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to answer questions. The select committee will give reasonable notice of the intended date of attendance. In the absence of reasonable notice, the person will not be required to attend.

**22.9 Reports and Recommendations**

If the Safer Stronger Communities Select Committee makes a report or recommendation to a responsible authority or to a co-operating person/body, that person or body must respond to the report/recommendation in writing within 28 days of the date of making the report/recommendation, or if this is not reasonably possible, as soon as reasonably possible after that.

**22.10 Agenda Items**

(a) Any member of the Council may refer a local crime and disorder matter to the Committee for inclusion on the agenda and for discussion at a meeting of the select committee.

(b) In deciding whether to exercise its powers in response to the referral, the select committee will have regard to any powers available to the referring member by virtue of Section 236 Local Government in Health Act 2007 (exercise of functions by councillors) and any representations made by the referring member as to why it would be appropriate for the select committee to exercise its powers.

(c) If the select committee decides not to exercise its powers it will inform the referring member and give reasons for its decision.

(d) Where the select committee makes a report/recommendations, it must supply a copy to the referring member and a copy to the responsible authorities and co-operating bodies/persons as it considers appropriate. It must inform those authorities/bodies that they must respond indicating what action (if any) they intend to take and that they must have regard to the report/recommendations in exercising their functions. A response must be made within 28 days or if that is not possible as soon as is reasonably possible thereafter.

(e) For the purposes of paragraph 22.9, a “local crime and disorder matter” means a matter concerning crime and disorder, in particular forms of crime and disorder that involve antisocial behaviour or other behaviour adversely affecting the local environment or the misuse of drugs, alcohol or other substances affecting all or part of the ward for which the member was elected or any person who lives or works in that area.

## 23 Scrutiny of health matters

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

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

23.3 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:-

i) any legal requirements; and
ii) 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

## F – BUDGET AND POLICY FRAMEWORK RULES

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

*After a budget decision is made the names of those voting for, against or abstaining must be recorded. If the Council decides to increase Council Tax in excess of principles set by the Secretary of State, it must also set a compliant budget which would be effective if a binding referendum, which by law must be held, does not support the Council's decision to approve a Council Tax in excess of the Secretary of State's limits.*

*Where there is any discrepancy between this précis and the statutory rules, the rules prevail.*

### 1 What is the budget and policy framework?

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

### 2 Who decides on the budget and policy framework?

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

### 3 Process for developing the framework

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

- A plan of a description specified in Article 4 (2) (a) or
- A plan or strategy for the control of the Council's borrowing or capital requirement or
- Any other plan or strategy whose adoption or approval is a matter for determination by the Council by virtue of Regulation

5(1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

Once drawn up, the Executive will provide a copy of such draft plan or strategy to the proper officer who will serve copies of it on the Chair of the Business Panel and the Chair of any relevant select committee, together with details of the date when the Executive intends to consider them further which will normally be at least 10 days later than service of the copies on the Chair of Business Panel and Chair of any relevant select committee.

(b) The relevant select committee or Business Panel may consider whether to respond to the Executive's initial proposals and whether any further consultation by it is appropriate. If so the select committee/Business Panel will conduct a consultation exercise, the scale of which will depend on the amount done already by the Executive and any timetabling constraints. The select committee/Business Panel will reflect the outcome of any further consultation carried out in the timescales available in any submission it may make to the Executive.

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

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

(e) When the Council considers the Mayor's draft plan or strategy, it may resolve by a majority of those present and voting either to:-

i. approve the plan or strategy as drafted;

ii. approve, as drafted, any plan or strategy for submission to the Secretary of State or any Minister of the Crown of which any part is required to be so submitted; or

iii. refer the matter back to the Mayor for reconsideration.

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

(g) If the Council does instruct the Mayor in accordance with (f) above, it must give a period of 10 working days beginning with

the day after which the Mayor receives the instructions to reconsider, within which time the Mayor may:-

i. submit a revision of the draft plan or strategy as amended by the Executive (the revised plan or strategy) with the Executive's reasons for any amendments made to the draft plan or strategy, to the Council for consideration; or

ii. resubmit the unamended draft plan or strategy to the Council and inform it of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.

(h) When the ten day period referred to in paragraph (g) has expired, the plan or strategy (whether amended by the Mayor or not) will be referred back to the Council.

(i) In considering the plan or strategy referred back to it by the Mayor, the Council will take account of such of the following matters as the Mayor has brought to the attention of the Council within the specified time:-

i. any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy;

ii. the executive's reasons for those amendments;

iii. any disagreement that the Executive has with any of the Council's objections; and

iv. the Executive's reasons for that disagreement.

(j) Where the Council proposes to –

i. amend the draft plan or strategy or, as the case may be the revised draft plan or strategy;

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

iii. adopt with modifications the plan or strategy,

and that plan or strategy (whether or not in the form of a draft), with any proposed amendments or modifications, is not in accordance with the Mayor's draft plan or strategy, or as the case may be, the Mayor's revised draft plan or strategy, the question

whether to amend, approve or adopt the plan or strategy must be decided by a two-thirds majority of the members of the Council present and voting on the question at a Council meeting.

(k) Subject to paragraph (o), where before 8th February in any financial year, the Executive submits to the Council for consideration in relation to the following financial year –

i. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 522F, or 522J of the Local Government Finance Act 1992 (calculation of Council Tax requirements etc),

ii. estimates of other amounts to be used for the purposes of such a calculation;

iii. estimates of such a calculation, or

iv. amounts required to be stated in precept under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts)

and following consideration of those estimates or amounts the Council has any objections to them it must take the actions set out in (l) below.

(l) Before making a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in (k) above, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Mayor of any objections which it has to the Executive's estimates or amounts and must give to him/her instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

(m) Where the Council instructs the Mayor in accordance with (l) above, it must specify a period of 10 working days beginning on the day after the date on which the Mayor receives those instructions within which the Mayor may:-

i. submit a revision of the estimates or amounts as amended by the Executive (the revised estimates or amounts), which have been reconsidered in accordance with the Council's requirements, with the Executive's reasons for any amendments made to the estimates of amounts, to the Council for reconsideration; or

ii. inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement

(n) Subject to (o) below, when the 10 day period set out in paragraph (m) above has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in (k) above, or when issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account –

i. any amendments to the estimates or amounts that are included in any revised estimates or amounts;

ii. the Executive's reasons for those amendments;

iii. any disagreement that the Executive has with any of the Council's objections; and

iv. the Executive's reasons for that disagreement

which the Mayor submitted to the Council, or informed the Council of within the specified period.

(o) If the Council for the purpose of making the calculations or issuing the precept proposes to use estimates or amounts ( 'the different estimates or amounts") which are not in accordance with the Executive's estimates or amounts or, as the case may be, the Executive's revised estimates or amounts, the question whether to use the different estimates or amounts must be decided by a two thirds majority of the members of the Council present and voting on the question at a meeting of the Council.

(p) The provisions for approval of the decisions in this Part F apply to decisions whether or not they would result in a Council Tax increase which would be deemed excessive using principles set by the Secretary of State under Part 5 Chapter 1 Localism Act 2011 and relevant regulations.

(q) Where the Council seeks to set a Council Tax which would be deemed excessive by reference to Part 5 of Chapter 1 Localism Act, it must hold a referendum in accordance with relevant regulations and propose additional measures that would be effective in the event that the binding referendum does not approve the imposition of the "excessive" Council Tax increase.

(r) <u>Recorded note on budget decisions</u>

Immediately after any vote is taken at a budget decision meeting, there must be recorded in the minutes of the proceedings at that meeting, the names of the persons who cast a vote for the decision, against the decision, or who abstained from voting.

(s) A “budget decision meeting” means one which

(i) makes a calculation (whether original or substitute) in accordance with any of the sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 522F, 522J of the Local Government Finance Act 1992; or

(ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept was included as an item of business on the agenda for that meeting.

- References to a vote on any decision are to a vote on any decision related to the making of the calculation or issuing of the precept.

**4 Virement**

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

**5 Adequacy and Application of Reserves**

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

**6 Amending the policy framework**

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

**7 Decisions contrary to the budget and policy framework**

(a) Subject to Rule F4 and F6 above, those making executive decisions may only make decisions which are in line with the

budget and policy framework. If any decision maker wishes to make a decision which is “contrary to the policy framework or contrary to or not wholly consistent with the budget” previously approved by the Council then subject to 9 below, that decision can only be taken by the Council.

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

(c) If the Mayor (or any other person or body making an executive decision) wishes to make a decision which may be “contrary to the policy framework or contrary to or not wholly consistent with the budget” they must first take the advice of the Monitoring Officer and/or the Chief Finance Officer. If the advice of either of these officers is that the decision would be "contrary to the policy framework, or contrary to or not wholly consistent with the budget" then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions of Rule F9 below apply.

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

(a) Where the relevant Business Panel is of the view that an executive decision is, or would if made be, contrary to the policy framework or contrary to or not wholly consistent with the budget, then it shall seek advice from the Monitoring Officer and/or the Chief Finance Officer.

(b) In respect of functions which are the Executive’s responsibility, a report of the Monitoring Officer and/or of the Chief Finance Officer will then be submitted to the Executive with a copy supplied to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report of the Monitoring Officer and/or the Chief Finance Officer. The Executive must also prepare a report to Council in the event that the Monitoring Officer and/or Chief Finance Officer conclude that the decision was a departure, and to the Business Panel if the Monitoring Officer/Chief Finance Officer decide that it was not.

(c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or Chief Finance Officer is that the decision is, or would be, contrary to the policy framework, or contrary to or not wholly consistent with the budget, the relevant Business Panel may refer the matter to Council. In such cases no further action may be taken in respect of the decision or its implementation until the Council has

met and considered the matter. The Council will meet within 10 days of the request by the Business Panel. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.

(d) The Council may then either:-

- endorse the decision or proposal as falling within the existing policy framework and budget. (In this case no further action is required, save that the decision of the Council be minuted and circulated in the normal way. If the decision has not yet been taken however, it will be for the Executive and not the Council to make it); or

- amend the Council's budget, financial regulations or policy to encompass the decision or proposal and agree to the decision with immediate effect; or

- where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly consistent with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter having regard to the advice of the Monitoring Officer and/or Chief Finance Officer.

**9 Urgent decisions outside the budget or policy framework**

(a) Executive decisions which are contrary to the policy framework or contrary to or not wholly consistent with the budget may be taken if the decision is a matter of urgency.

(b) Such decisions may only be taken if:-

- it is not practical to convene a quorate meeting of the Council in sufficient time to make the decision; and

- if the Chair of the relevant Business Panel agrees that the decision is a matter of urgency

(c) Both the reasons why it is not practical to convene a quorate meeting of the Council and the consent of the Chair of the relevant Business Panel must be noted on the record of the decision. In the absence of the Chair of the relevant Business Panel, the consent of the Chair of the Council will suffice, and in the absence of both, the Deputy Speaker.

(d) Following the decision, the decision maker must provide a report to the next meeting of the Council explaining the decision, the reasons for it and why it was treated as a matter of urgency.

## G - ACCESS TO INFORMATION PROCEDURE RULES

### 1 Scope

Save as mentioned below, these rules apply to all meetings of the Council, overview and scrutiny committees, area committees if any, the Standards Committee and meetings of any committee or sub committee appointed by the Council, as well as meetings of the Executive and any committee of it as set out in this Part G, (together called meetings). The rules set out in this Section shall not apply to meetings of the Licensing Committee or sub-committees which shall be governed by Regulations made under Section 9 of the Licensing Act 2003 and any future rules determined by the Licensing Committee under that Section. Additional access to information rules pertaining only to executive decision making are dealt with at paragraph 12 below.

### 2 Additional rights to information

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

### 3 Right of public to attend meetings

Any member of the public may attend all meetings of the Council and its Executive subject only to the exceptions in this Constitution.

### 4 Notices of meeting

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

### 5 Access to agenda before the meeting

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

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

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

(b) in accordance with Rule C25 – Urgency.

However this provision does not allow a key executive decision to be taken if it has not been included in the Council's key decision plan, unless Rule 18 (urgency) or 19 (special urgency applies).

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

**6 Supply of copies**

The Council will supply copies of:-

(a) any agenda and reports which are open to public inspection;

(b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

(c) if the proper officer thinks fit, copies of any other documents supplied to councillors and/or the Mayor in connection with an item to any person on payment of a reasonable charge

**7 Access to minutes etc. after the meeting**

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

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

(b) a summary of proceedings when the meeting was not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record

(c) the agenda for the meeting

(d) reports relating to items when the meeting was open to the public.

**8 Background papers**

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

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in the preparation of the report.

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

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

**9 Summary of public rights**

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

(2) Where documents are open to public inspection they will be available at all reasonable office hours at the Council's offices and on its website, and in relation to background documents referred to in a report, on payment of the Council's reasonable fee.

(3) The public right to inspect a document includes the right to copy all or part of it and to require a copy of the whole or part on payment of the Council's reasonable fee for postage, copying or other transmission.

(4) Any member of the public may in any publicly available medium reproduce or provide commentary in relation to any document available for public inspection under regulations applying specifically to executive decisions and documents, save that this does not authorise any breach of the copyright of any person other than the Council by a member of the public.

(5) The rights conferred by this Paragraph 9 are additional to any other rights.

**10 Exclusion of the public from meetings**

(a) Confidential information

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

Confidential information is information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or court order. (see Appendix 1)

(b) Exempt information

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

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

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

## 11 Exclusion of Access by the Public to Reports

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

## 12 Application of the access to information rules to the Executive

In addition to those rules set out above, the following rules G13 to 19 apply to meetings of the following decision making bodies:

- The executive
- A Committee of the Executive
- A joint committee where all the members are members of a local authority executive and it exercises executive functions, and sub committees of such a joint committee
- An area committee of the executive.

## 13 Public meetings of the Executive

The Executive will meet in public except to the extent that any of the conditions set out in paragraphs (a), (b) or (c) apply, in which case the public must be excluded.

(a) It is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence;

(b) The decision making body passes a resolution to exclude the public during that item where it is likely in view of the nature of the item of business that if members of the public were present during that item, exempt information would be disclosed to them; or

(c) A lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

Any resolution under (b) above must also state the part of the proceedings from which the public are to be excluded and state by reference to Schedule 12A Local Government Act 1972 the description of exempt information giving rise to the exclusion of the public.

The public may only be excluded under (a) or (b) above for the part of the meeting during which it is likely that confidential or exempt information would be likely to be disclosed

## 14 Procedure prior to public meeting of the Executive

(a) The proper officer will display at the Council's main offices and on the Council's website notice of the time and place of the meeting for at least 5 clear days, or if the meeting is convened at shorter notice, from the time it is convened.

(b) An item of business can only be considered at a public meeting where a copy of the agenda or part of the agenda including the item has been available for inspection for 5 clear days before the meeting, or if the meeting is convened at shorter notice from the time the meeting was convened.

(c) The agenda and reports for the meeting must be available for inspection by the public at the Council's main offices and on the Council's website for five clear days prior to the meeting (or if the meeting is convened at shorter notice from the time it is convened, or if the item is added to the agenda, when the item is added to the agenda).

(d) The proper officer may exclude from any report available for inspection any part which relates only to confidential or exempt information. If a report for consideration at a public meeting contains such matters, every copy will be marked “not for publication” and will state the reason, namely either that it contains confidential information or exempt information, by reference to the particular ground(s) in Schedule 12A Local Government Act 1972.

(e) The public shall not be entitled to access to any report until a copy is available to the members of the decision making body.

(f) A reasonable number of copies of the agenda and reports will be available for the use of members of the public present when meetings are open to the public.

(g) Subject to exceptions relating to confidential and exempt information, where a request is made by a member of the public or on behalf of a newspaper, the Council will supply a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting and such further statements or particulars as are necessary to indicate the matters on the agenda and, so far as the proper officer thinks fit, any other documents given to members in connection with the item.

Confidential and exempt information have the meanings set out in Appendix 1.

**15 Reporting at public meetings of the executive**

(a) While meetings are open to the public, the provisions of the Protocol provided at Appendix 3 to this Constitution shall apply in its entirety to meetings of the Executive as they do to any other open public meeting of this Council.

(b) Any person attending the meeting for the purpose of reporting the proceedings shall identify themselves to the Clerk of the meeting and comply fully with the provisions of the Protocol.

(c) Should the Chair decide at any point during the open meeting, that any or all recording shall stop because he/she deems it to be disruptive or distracting to the good order and conduct of the meeting, then the Chair’s decision shall be final.

**16 Procedure prior to private meetings of executive decision making bodies**

(a) 1st private meeting notice

At least 28 clear days before the private meeting, the proper officer will make available at the Council's main offices a notice of intention to hold the meeting in private and publish that notice on its website. That notice will contain a statement of why the meeting is to be held in private.

(b) 2nd private meeting notice

At least 5 clear days before the meeting the proper officer will make available at the Council's main offices and publish on the website a notice which will include a statement of the reasons for the meeting to be held in private, details of any representations received about why it should be open to the public and a statement of its response to those representations.

(c) Urgency

Where the date by which a meeting must be held makes compliance with paragraph 16 (a) and/or (b) impracticable, the private meeting may only be held if the Chair of the Overview and Scrutiny Committee agrees that the meeting is urgent and cannot reasonably be deferred. If there is no Chair of Overview and Scrutiny or he/she is unable to act, the Speaker may agree. If there is no Chair of either Overview and Scrutiny or Council, the Deputy Speaker may agree.

(d) Notice of urgency

Where the Chair of the Overview and Scrutiny Committee gives agreement in accordance with paragraph G16 ( c ) above, the proper officer will, as soon as reasonably practicable, make available at the Council's main offices and publish on the Council's website, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

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

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

(g) The provisions of (e) and (f) above are in addition to the requirements set out at G16(a) to (d) above.

**17 Key Decisions**

(a) Definition

Key decisions are those defined as such at Article 16.

(b) Decisions to be publicised

Subject to Rule 18 (urgency) and Rule 19 (special urgency), a key decision may not be taken unless the matter has been included in the Council's key decision plan, which must be available for public inspection at the Council's main offices and on the Council's website for 28 clear days before a key decision is made.

(c) Contents of the key decision plan

The key decision plan will contain the following particulars in so far as the information is available or might reasonably be obtained:-

(1) That a key decision is to be made;

(2) The matter in respect of which the key decision is to be made;

(3) Where the decision maker is an individual, his/her name, his/her title if any, and, where the decision maker is a decision making body, its name and a list of all its members;

(4) The date on which, or the period within which, the decision is to be made;

(5) A list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which a key decision is to be made;

(6) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

(7) That other documents relevant to the those matters may be submitted to the decision maker; and

(8) The procedure for requesting details of those documents (if any) as they become available.

Where a key decision would include exempt or confidential information this will not be included in the key decision plan, but the particulars of the key decision must be referred to in the key decision plan.

**18 General Exception - Urgency**

18.1 If it is impracticable for a matter which is likely to be a key decision to be included in the key decision plan, then subject to Rule 19 (special urgency) the decision may only be taken if:-

(a) the proper officer has informed the Chair of the Business Panel, or if there is no such person each member of the Business Panel, in writing, by notice, of the matter in respect of which the decision is to be made; and

(b) the proper officer has made copies of that notice available to the public at the offices of the Council and published it on the Council's website; and

(c) at least 5 clear days have elapsed since the proper officer complied with (a) and (b) above.

18.2 As soon as reasonably practicable, the proper officer will publish at the Council's main offices and on the Council's website if it has one, a notice setting out the reasons why it was not practicable to comply with the requirement to include the matter in the key decision plan.

**19 Special Urgency**

(a) If by virtue of the date by which a key decision must be made, Rule 18 above cannot be followed, then the decision may only be taken if the Chair of the Business Panel agrees that the taking of the decision is urgent and cannot reasonably be deferred. If there is no Chair of the Business Panel, or if there is but they are unable to act, then the agreement of the Speaker, or if there is neither a Chair of Business Panel nor Council, the Deputy Speaker may agree.

(b) If agreement is given under para 19(1) above, the proper officer will make available at the Council offices, and publish on its website if it has one, a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.

(c) The Mayor will prepare and submit to the Council at quarterly intervals a report containing details of each executive decision taken during the preceding three months where the making of the decision was agreed as urgent in accordance with Rule 19. This report must contain particulars of each decision made, and a

summary of the matters in respect of which each decision was made.

**20 Overview and scrutiny rights in relation to the key decision plan and urgency decisions**

(a) If the Business Panel thinks that a key decision has been made which was not included in the key decision plan or properly decided in accordance with Rule 18 or 19, then the Business Panel may require the Executive to submit a report to the Council within such reasonable time as the Business Panel specifies.

(b) If an Executive report is required in accordance with (a) above, the Executive will then prepare a report for Council setting out the decision, the reasons for it, the identity of the individual or body making the decision, and if the Executive is of the opinion that it was not a key decision, the reasons for that view.

(c) The Executive report will be submitted to the next Council meeting, unless the request is made by the Business Panel within 10 working days of that Council meeting, in which case it may report to the following Council meeting.

**21 Right to attend and speak at meetings of the executive**

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

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

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

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

## 22 Record of decisions

As soon as reasonably practicable after any meeting of the Executive or any of its committees, the proper officer (or their nominee who was present at the meeting) will produce a record of every decision taken at that meeting. Decisions taken at a meeting may only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications and may not be taken at any meeting unless the proper officer or their nominee is present. The record will include for each decision made:-

(a) a record of the decision and the date on which it was made;

(b) a record of the reasons for the decision;

(c) any alternative options considered and rejected at the meeting;

(d) a record of any conflict of interest declared in relation to the matter by any member of the decision making body; and

(e) any dispensation relating to any declared conflict of interest.

## 23 Basis for consideration by Executive

(a) When the Executive makes a decision of any sort, whether collectively, through the Mayor, a committee of the Executive, or through an individual member or officer, it may only do so on the basis of a written report which deals with a consideration of options available, service, corporate, financial, legal and all relevant considerations.

(b) When the Executive, whether collectively, through the Mayor, a committee of the Executive or an individual member seeks to make a decision, it may only do so in the presence of the Head of Paid Service, Chief Finance Officer, or the Monitoring Officer or their nominee(s) and an officer authorised to make a record of, and publish the decision.

(c) Executive decisions will only be deemed to have been made when they have been recorded and publicised in accordance with this constitution.

(d) When any officer report is submitted to the Executive for consideration at a meeting of the Executive or any of its committees, (whether or not a decision is likely to be the result of considering the report,) that report will contain all relevant considerations including service, corporate, financial and legal considerations. Reports submitted to the Mayor or individual members or officers of the Executive with the intention that they

should be the basis on which a decision is taken, shall be similarly drafted.

**24 Decisions by individual members of the Executive**

(a) All decisions taken individually by the Mayor alone or by individual members of the Executive, must be based on written reports. Those reports must contain all service, corporate, legal and financial implications.

(b) When an officer prepares a report which is to be given to the Mayor or an individual member for decision, he/she must first give a copy of that report to the proper officer.

(c) The proper officer will submit the report to the individual decision maker, and serve a copy on every member of the relevant Business Panel and any other relevant overview and scrutiny committee (or select committee) chair, and subject to exemptions relating to reports containing confidential and/or exempt information make it publicly available as soon as reasonably practicable. At the same time, notice will be served on the Chief Executive, Chief Finance Officer and Monitoring Officer.

(d) The individual decision maker may not make any key decision unless a period of five clear days has elapsed since the service of the report on the decision maker, the relevant Business Panel and relevant overview and scrutiny committee and select committee chairs and the public.

(e) Individual decisions may only be made by the Mayor or individual members of the Executive in the presence of the Chief Executive, Chief Finance Officer or Monitoring Officer or their nominee unless they waive that requirement and the proper officer whose responsibility it is to record the decision.

(f) As soon as reasonably practicable after the decision has been made, but in any event within 2 working days of the decision, the proper officer will prepare a written statement of the decision including the following prescribed information:-

- A record of the decision including the date it was made;
- a statement of the reasons for the decision;
- details of any alternative options considered and rejected at the time by the member when he/she made the decision;
- a record of any conflict of interest declared by any executive member who has been consulted by the member in relation to the decision;

- in respect of any declared conflict of interest, a note of any dispensation granted.

(g) The decision will not be deemed to have been made until the record has been made and publicised in accordance with this constitution.

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

**25 Executive decisions by individual officers**

(a) The Mayor, the Executive or committees of it may delegate decision making to an officer. Where they do so, the officer may only take an executive decision on the basis of a written report. That report must contain key service, corporate, financial and legal considerations.

(b) The person who supplies a copy of the report to the officer making the decision, must first supply a copy to the proper officer.

(c) The decision making officer must inform the proper officer immediately any decision has been taken and provide to them a written statement of the decision for publication containing all the details set out below:

(d) The record will contain:-

- a record of the decision and the date it is made;
- a record of the reasons for the decision;
- details of any alternative options considered and rejected by the officer making the decision;
- a record of any conflict of interest declared by any executive member who is consulted by the officer making the decision; and
- details of any dispensation in relation to any such conflict of interest

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

(f) Further provisions relating to officer decisions set out at G32 also apply.

## 26 Access to documents following executive decisions

(a) Subject to exceptions relating to confidential and exempt information (see paragraph 10) after an executive decision has been made, irrespective of whether by an individual or a decision making body, the proper officer will ensure that the record of the decision and any report considered in reaching the decision is made available for inspection by the public at the offices of the Council and on the Council's website.

(b) Where a request is made on behalf of a newspaper for a copy of any documents available for public inspection those documents must be supplied on payment by the newspaper of the Council's copying or other necessary transmission charge.

## 27 Inspection of background papers

Subject to exceptions relating to confidential and exempt information (see paragraph 10) when a report is made available for public inspection either before or after an executive decision is made, it must include a list of the background papers to the report and at least one copy of each of those background papers must be available for inspection at the offices of the Council and on the Council's website if it has one.

## 28 Members' access to documents

28 (1) All members

(a) Material relating to business to be transacted

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

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

shall be available for inspection by any member of the Council for a period of at least 5 clear days before that meeting except that where

- the meeting is convened at shorter notice when the document must be available for inspection when the meeting is convened; and
- where the item is added to the agenda at shorter notice the document must be available for inspection when the item is added

(b) Material relating to previous business

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

- in the possession or under the control of the executive and

- contains material relating to business transacted at a private meeting, or an executive decision made by an individual member or officer must be available for inspection by any member of the Council when the meeting concludes, or in the case of a decision made by an individual, immediately after the decision is made, and in any event within 24 hours of the conclusion of the meeting/ decision being made.

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

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

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

- paragraph 6 of Schedule 12A to the Act

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

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

28(2) **Overview and Scrutiny members**

(a) Subject to Rule 28 (2) (c), any member of the overview and scrutiny committee (including its select committees) will be entitled to copies of any document which is in the possession or control of the Mayor, the executive or any of its committees, if it contains material relating to

- any business which has been transacted at a public or private meeting of the executive; or

- any decision taken by a individual member of the executive;

- any decision that has been taken by an officer in accordance with executive arrangements.

(b) Where a member of the Overview and Scrutiny Committee requests a document falling within (a) above, the Executive must supply a copy as soon as reasonably practicable and in any event within 10 days of the request. If the Executive decides that the member is not entitled to a copy of the document, written reasons must be given to the overview and scrutiny committee.

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

**29 Limit on rights**

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

- any document that is in draft form;

- any document or part of a document that contains exempt or confidential information unless the information is relevant to an action or decision they are reviewing or scrutinising or intend to review or scrutinise; or

- the advice of a political assistant or adviser.

**30 Confidential information, exempt information and the advice of political assistant or adviser**

(a) Nothing in these rules requires the disclosure of a document or part of a document to the public if in the opinion of the proper officer it is likely that confidential, exempt information or the advice of a political adviser or assistant would be disclosed.

**31. Officer Decisions**

In addition to the requirements for reporting set out above, when an officer makes any decision whether executive or non executive under a

specific express or general authorisation, if the effect of the decision is to

- grant a permission or licence,
- affect the rights of an individual,
- award a contract or incur expenditure which in either case materially affects the Council's position

then the person making the decision must ensure that a written record of the decision is produced as soon as reasonably practicable. The written record must set out

- the date the decision was made with reasons,
- the details of alternative options if any, considered and rejected,
- details (if applicable) of any person who may have declared a conflict of interest in relation to the decision

# H EMPLOYMENT PROCEDURE RULES

## 1 Declarations

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

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

## 2 Canvassing for appointment

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

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

## 3 Statement of duties for chief officer posts

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

(a) draw up a statement specifying:

i. the duties of the post concerned; and

ii. any qualifications or qualities to be sought in the person to be appointed; and

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

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

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

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

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

**5 Meaning of disciplinary action**

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

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

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

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

The functions of the appointment of the Chief Finance Officer and the Monitoring Officer are delegated to the Appointments Committee in accordance with Article 9, but dismissal of the Chief Finance Officer and/or Monitoring Officer is subject to the approval of the full Council. No notice of dismissal may be sent until such approval is obtained.

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

Subject to (6) above and (9) below, the appointment of the Head of Paid Service, chief officers and deputy chief officers is delegated to the Appointments Committee in accordance with Article 9. Subject to (6)

above in relation to the appointment of the Head of Paid Service, an offer of appointment may not be made until:

(1) the appointer has notified the proper officer of the name of the person to whom it wishes to make the offer of appointment, and any other particulars which are relevant to the appointment; and

(2) the proper officer has notified every member of the Executive of:-

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

and

(3) either

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

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

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

In this Rule (8) 'the appointer' means the Council in the case of the Head of Paid Service, and the Appointments Committee in respect of the appointment of chief officers and deputy chief officers, or such other committee or sub-committee or officer to whom the appointment of chief officers and deputy chief officers has been delegated.

**9. The Director of Public Health – recruitment and dismissal**

(1) The Council's first Director of Public Health transferred to the Council's employment on 1 April 2013 by statutory instrument.

(2) For subsequent appointments, the following provisions shall apply.

(3) The appointment will be made by the Council's Appointments Committee acting jointly with the Secretary of State for Health. Current Guidance provides for an advisory appointments

committee to be established to advise the Council in accordance with the Faculty of Public Health Guidance. This provides that the advisory panel should be chaired by a lay member such as a local authority elected member. The constitution of the advisory panel is recommended in the Faculty of Public Health Guidance from time to time. The Council must provide the Secretary of State with details of their preferred candidate and their professional competence, compliance with regulation and necessary registration to perform the role. Public Health England will perform this role on behalf of the Secretary of State. In the event of disagreement between the Council and Public Health England, the matter will be referred to the Secretary of State who will advise the Council about the appointment.

The Council may dismiss the Director of Public Health but before doing so, will consult the Secretary of State.

**10. Dismissal of Head of Paid Service, chief officers and deputy chief officers**

Subject to Rule (6) above in relation to the Head of Paid Service, Rule (9) above in relation to the Director of Public Health, and subject to Rule (13) below in relation to disciplinary action against the Head of Paid Service, Chief Finance Officer and Monitoring Officer, the dismissal of chief officers and deputy chief officers will be delegated to the Head of Paid Service, or such other person as he/she shall nominate from time to time.

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

(1) The dismissor has notified the proper officer of the name of the person whom the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal; and

(2) the proper officer has notified every member of the executive of:-

- the name of the person who the dismissor wishes to dismiss
- any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
- the period in which any objection to the dismissal is to be made by the Mayor on behalf of the executive to the proper officer; and

(3) either:-

(i) the Mayor has within the period specified in the notice, notified the dismissor that neither he/she nor any other member of the executive has any objection to the dismissal; or

(ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the elected Mayor; or

(iii) the dismissor is satisfied that any objection received from the Mayor within that period is not material or is not well founded

In this Rule (10), "the dismissor" means the Council, a committee, sub-committee or officer of the Council discharging the function of dismissal on behalf of the Council.

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

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

**12. Eligibility to sit on appeals committees**

Nothing in rule (10) prevents a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by:-

- another person against any decision relating to the appointment of that other person as a member of staff of the Council; or

- a member of Council staff against any decision relating to the dismissal of, or taking of disciplinary action against, that member of staff.

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

13.1 The Council may not dismiss the Head of Paid Service, Chief Finance Officer or the Monitoring Officer unless the procedure set out in the following paragraphs 13.2 – 13.6 has been complied with.

13.2 The Council must invite "relevant independent persons" to be considered for appointment to a Panel to be established under Section 102(4) Local Government Act 1972 to advise it on matters relating to the dismissal of the officer concerned.

13.3 For the purposes of paragraph 13.2 a “relevant independent person” is any independent person who has been appointed by the Council to advise it on alleged breaches of the Council’s Member Code of Conduct pursuant to Section 28(7) Localism Act 2011. If the Council has appointed fewer than 2 such persons, the definition shall include independent persons appointed by another authority/authorities.

13.4 Appointment to the Panel shall include at least 2 relevant independent persons who have accepted the invitation issued in accordance with paragraph 13.2 above. The Council must appoint Panel members in the following priority order:-

(a) a relevant independent person who has been appointed by the Council who is a local government elector in the London Borough of Lewisham.

(b) any other relevant independent person who has been appointed by the Council.

(c) a relevant independent person who has been appointed by another authority or authorities.

13.5 The Council must appoint the Panel at least 20 working days before any Council meeting to consider whether or not to approve the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer.

13.6 Before the taking of a vote at a meeting convened to consider whether or not to dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer, the Council must take into account, in particular:-

(a) any advice, views or recommendations of the Panel;
(b) the conclusions of any investigation into the proposed dismissal; and
(c) any representations from the relevant officer.

## 14. Involvement of members in disciplinary action below deputy chief officer

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

## 15. Political assistants

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

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

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

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

No party may have more than one political assistant.

## 16. Mayor’s assistant

The Council may appoint a Mayor’s assistant in pursuance of regulations made under paragraph 6 of Schedule A1 of the Local Government Act 2000 as amended.

## 17. Pay Policy Statement

The Council will approve its Pay Policy Statement annually as required by Section 38 Localism Act 2011 and will act in accordance with it.

# I CONTRACT PROCEDURE RULES FOR THE SUPPLY OF GOODS, SERVICES AND WORKS

## 1 INTRODUCTION

**These rules reflect current law, Council policy and procedures. The Council has produced a Procurement Guide to assist officers in the procurement of Goods, Services and Works. Officers are required to refer to this for additional advice and to consult Legal Services and/or the Procurement Team in all procurement matters.**

**Information about which decision making body or officer can make decisions about matters set out in these Rules is contained in the Council and Mayoral Schemes of Delegation, and in Directorate Schemes of Delegation.**

**In these rules any reference to "signed" includes signed electronically.**

In these Rules 'Authorised Officers' means those officers of the Council identified as such by Executive Directors in their Schemes of Delegation and approved by the s151 officer to undertake procurement and contracting on behalf of the Council (including authorisation of expenditure, preparing and/or negotiating contract documentation, awarding and signing contracts and/or managing contracts) and any Agents as defined in these Rules as having such authority.

1.1 **What these Rules apply to**

These Rules apply to all contracts for the provision of goods, services and works to the Council unless otherwise specified in these Rules[1]. The Rules also cover the procurement of Framework Agreements and contracts entered into under them.

1.2 These Rules also apply to a procurement process for a service which has been triggered by a Community Right to Challenge under the Localism Act 2011 which enables charities, voluntary groups, parish councils and two or more employees of the Council to express an interest in providing or assisting with the provision of a service on behalf of the Council.

The Council has published a statement on its website containing detailed procedures, including the information required in an expression of interest for those wishing to challenge, the timeframes for submission of such expressions of interest and how the expression of interest will be considered. These procedures must be followed.

1.3 These Rules apply to an extension or variation to a contract as set out in Rule 17

[1] See in particular Rules 1.5 and 1.6

**1.4 What contracts must comply with**

(i) the relevant law including in particular the Public Contracts Regulations 2015 and the Concession Contracts Regulations ("the Regulations"), the Council's statutory duties and powers and the Council's fiduciary duty to safeguard public funds) and relevant EU law

(ii) these Rules and the Council's Financial Procedure Rules;

(iii) the Council's Sustainable Procurement Code of Practice ("the Procurement Code");

(iv) any relevant Council policies; and

(v) any legal requirement stipulated by the Director of Law.

1.4.1 All contracts must comply with all of the following principles of EU law:

(i) free movement of goods and services;

(ii) non-discrimination;

(iii) openness/transparency;

(iv) equal treatment for all; and

(v) proportionality.

**NB:** Where appropriate, documentation should contain the following warning: References to legislation including statutory instruments contained within this document/policy/procedure/ guidance (delete as appropriate) may have been superseded by changes derived from the European (Withdrawal) Act 2018 ("the Act") and subordinate legislation introduced as a result of Brexit. Users should check references contained within to ensure they are up to date. No liability is accepted for reliance or loss arising from the specified legislation or procedure which has subsequently been amended by the Act or European Union Exit Statutory Legislation from the date of publication.

1.4.2 Where a contract requires the tender procedure to be carried out under European Union public procurement legislation (an "EU Tender") or any successor legislation, additional rules applying to such tender procedures must be complied with. These are summarised in these Rules, but advice should be sought from the Procurement team (see **Rule 2**) and/or Legal Services.

**1.5 Compliance with the Rules**

These Rules are mandatory and must be complied with by all officers of the Council authorised to undertake a procurement[2] ("Authorised Officers") and all other persons who are authorised to carry out procurement and contracting on behalf of the Council (such as the Council's agents for property services) ("Agents"). It must be a term of all contracts between the Council and its Agents that the Agents comply with these Rules.

**1.6 When these Rules do not apply**

These Rules do not apply to:

(i) contracts which are not for the provision of goods, services or works, except that they may in certain circumstances apply to the award of grants or contracts relating to land. Legal advice will be required in relation to such awards or contracts. Note also that these Rules do not apply to contracts of employment but they do apply to consultancy contracts which are contracts for services.

(ii) contracts entered into by schools with delegated budgets. Such contracts should instead be awarded in accordance with the School's Financial Handbook.

(iii) low value purchases which may be made by procurement cards provided that they are made in accordance with any operational instructions and financial limits issued by the s151 Officer.

1.7 In specific circumstances and for certain contracts some of these Rules do not apply. Details are set out in Rules 18 and 19 and Authorised Officers should refer to these Rules.

1.8 In exceptional circumstances, exemptions to these Rules may be granted. Details are set out in Rule 18.

**2. Where to get advice**

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[2] **Authorised Officers** means those officers of the Council identified as such by Executive Directors in their Schemes of Delegation and approved by the s151 Officer to undertake procurement and contracting on behalf of the Council (including authorisation of expenditure, preparing and/or negotiating contract documentation, awarding and signing contracts and/or managing contracts) and any Agents as defined in Rule 1.8 with such authority.

2.1 Officers requiring advice on procurement practice and/or EU requirements should contact the Procurement Team and/or Legal Services or, in relation to contracts for Social Care and Health, the Joint Commissioning Team

2.2 In all cases officers must seek legal advice from Legal Services in relation to the drafting of the legal terms and conditions of contracts.

**PRE-PROCUREMENT**

**3. Pre-Tender Authorisations and Requirements and Permissions**

3.1 Authorised Officers must ensure, before entering into any process which will or may result in the incurring of any expenditure for the supply of goods, services or works be it capital or revenue, that:

(i) they produce a robust business case which must show that the expenditure required has been fully considered and sufficient money has been allocated in the relevant budget. In this regard it will be necessary to check that adequate financial provision is included in the Council's approved revenue budget or capital programme (as appropriate) and an audit trail is maintained to support the business justification and approval process;

(ii) an estimate of the contract value is prepared and recorded in writing. This is to be calculated on the basis of the total amount payable to the contractor, supplier, or service provider over the whole contract period. All such estimates shall be kept in a central register by the relevant Executive Director;

(iii) where it is a key decision, the requirements of Part II, Article 16, of the Constitution have been complied with[3];

(iv) they have considered whether any consultation requirements apply, including whether the Public Services (Social Value) Act 2012 applies to any services. This Act requires the Council when procuring services above the EU threshold to consider:

(a) how what is to be procured might improve the economic, social and environmental wellbeing of the relevant area; and
(b) in conducting the procurement how it might act with a view to securing that improvement,

provided that those matters to be considered must only be matters that are relevant to the services to be procured and it

[3] A decision taker may only take a key decision in accordance with the requirements of the Article 16 (Principles of Decision Making including key decisions and Access to Information Rules in the Constitution. This section sets out further details of what a Key Decision is and what procedure is required

must be proportionate in all the circumstances to take those matters into account.

**3.2 Small and Medium Enterprises (SMEs) and Lots**

In order to ensure access to the market by SMEs, Councils are encouraged by the Regulations to consider subdividing contracts into smaller lower value packages ("Lots"). Reasons for not dividing into lots must be set out in the Procurement Documents and the reasons recorded in the reports set out at Rule 16.

**3.3 Preliminary market consultation**

Before commencing a procurement procedure, Authorised Officers may conduct a market consultation with a view to preparing the procurement and informing economic operators of the Council's procurement plans and requirements. For this purpose:

(i) they may seek or accept advice from independent authorities or market participants;

(ii) may use such advice in the planning and conduct of the procurement provided that it does not distort competition or breach the principles of non-discrimination and transparency or cause a conflict of interest.

**4. Establishing the Value of the Contract/Expenditure per Contract**

4.1 "Estimated expenditure". The value of a contract (that is, the expenditure per contract) means the amount estimated to be payable by the Council to the supplier for the goods, services or works (excluding VAT) over the entire length of the contract including, if the contract confers an option to extend, the amount payable in the exercise of that option. For example, a three-year contract with an option to extend for two years under which £200,000 is payable per annum has a value of £1,000,000.

4.2 The estimated expenditure of a Framework Agreement means the estimated amount payable by the users of the framework for the goods, services or works (excluding VAT) under Call-off Contracts entered into over the entire possible duration of the framework.

4.3 Contracts must not be split into smaller contracts in order to avoid any of these Rules. The total value of a contract may include all contracts to meet a single requirement for goods or services.

4.4 For contracts of an indefinite length the value must be established on

the basis that the contract will last for a period of 48 months.

**4.5 EU Thresholds**

4.5.1 The requirements of the Regulations apply to contracts the total value of which meet or exceed the relevant threshold then in force set out by the relevant EU Directive.

4.5.2 With effect from January 2018, these thresholds are;

(i) £ 181,302 for goods and services;

(ii) £4,551,413, for works

(iii) £615,278 for Light Touch Regime contracts (which includes social, health and community services).

**THE PROCUREMENT PROCESS**

**5. Best Value – Competitive Quotes and Tenders**

5.1 In letting contracts Authorised Officers must take practicable steps to secure value for money through a combination of cost, quality and competition. Competitive tenders or quotations must be sought depending on the Category as shown in Table 1 below. For convenience, the contracts are divided into categories according to value.

**Table 1**

| **Estimated expenditure per contract** | **Permitted method of competition** | **Contract category** |
|---|---|---|
| Building, construction and engineering works contracts ("Works Contracts") **above the EU threshold** | (a) By an invitation to tender by public advertisement compliant with the EU regulations (currently an OJEU notice); or<br><br>(b) by the use of a Framework Agreement; or<br><br>(c) by the use of a Dynamic Purchasing System | A |
| Building, construction and engineering works contracts ("Works | (a) By an invitation to tender by public advertisement: or | B |

| | | |
|---|---|---|
| Contracts”) **below the EU threshold** | (b) By tendering with a minimum of 5 contractors; or<br><br>(c) By the use of a Framework Agreement; or<br><br>d) by the use of a Dynamic Purchasing System | |
| Contracts for Goods and Services **above the EU threshold** | (a) By an invitation to tender by public advertisement compliant with EU regulations (currently an OJEU Notice); or<br><br>(b) by the use of a Framework Agreement; or<br><br>(c) by the use of a Dynamic Purchasing System | A/B |
| Contracts for Goods and Services **below the EU threshold** | (a) an invitation to tender by public advertisement; or<br><br>(b) By tendering to a minimum of 5 contractors; or<br><br>(c) by the use of a Framework Agreement or<br><br>(d) by the use of a Dynamic Purchasing System | B |
| Contracts for services procured under the Light Touch Regime **above the EU threshold** | (a) By an invitation to tender by public advertisement (currently an OJEU notice); and<br><br>- following the process described in the contract notice (open, restricted etc);<br>- setting time limits which are reasonable and proportionate;<br>- complying with the EU principles of transparency and equal treatment;<br>- publishing a contract award notice. | A |
| All contracts between £25,001 – £50,000 | Seek four written quotations. | C |
| All contracts between £10,000 – £25,000 | Three written quotations | C |
| All contracts under £10,000 | Two written quotations | C |

NB

A “Dynamic Purchasing System” is an electronic purchasing system open to new bidders throughout the term of the contract which is compliant with the procurement Regulations.

A “Framework Agreement” has the meaning set out in Rule 5.2

**5.2 Framework Agreements**

A Framework Agreement is a contract between one or more contracting authorities with a single contractor or several contractors which establishes the terms and conditions (in particular as to price) under which orders/individual contracts (“Call Off Contracts”) can be made during the length of the Framework Agreement.

**5.3 Call-off Contracts**

Call-off Contracts must be entered into in accordance with the terms of the relevant Framework Agreement and a mini-competition (the tender process required by the Framework Agreement) must be held unless otherwise permissible in law upon which legal advice must be sought.

**5.4 Concession Contracts**

5.4.1 A concession contract is a contract for the supply of works or services to the Council where the consideration for the contract consists of either the contractor’s right to exploit the works (that is the Council makes no payment), or that right together with payment from the Council; and where the concessionaire takes some risk. (An example is where a waste disposal contract allows the contractor to recycle waste products and keep the proceeds to recover its costs, possibly paying the Council for the right to do so.) Concession contracts are covered by different legal requirements than those applicable to other contracts, including regarding the estimated expenditure threshold.

5.4.2 Concession contracts are still subject to competition in accordance with the Regulations and these Contract Procedure Rules. The relevant Category for determining the procurement route under these Contract Procedure Rules will depend on the value of the contract. That value shall be calculated on the basis of the total turnover of the concession generated over the duration of the contract (net of value added tax) including any payment from the Council. It must reflect the estimated consideration which would have been given if the entire cost of the services had been paid for by the Council.

**5.5 Advertising a contract and publication on the Contracts Finder**

If advertising is required, it must be advertised on the Contracts Finder which is the web-based portal provided by or on behalf of the Cabinet

Office and the London Tenders Portal in accordance with advice from the Procurement Team.

**5.6 Frontloading the procurement**

Authorised Officers must ensure that, by electronic means, full direct and unrestricted access, is provided free of charge to all the procurement documents from the date of the publication in the Official Journal of the European Union (OJEU) of the notice advertising the contract. The procurement documents include:

(i) the Invitation to Tender;
(ii) the specification/design;
(iii) the terms and conditions of contract;
(iv) pricing documents

together referred to as “Procurement Documents”.

**5.7 Prior Information Notices (PINs)**

Authorised Officers may make known the Council’s intentions to advertise a contract through the publication of a Prior Information Notice in the OJEU. This can be used as an invitation to tender (that is no other advertising is required) provided:

(i) it refers specifically to the goods/services/works which are the subject matter of the contract;
(ii) it indicates which EU procedure will be used and if it is a two stage procurement;
(iii) it makes it clear that the contract will be awarded without further publication; and
(iv) it is sent to OJEU between 35 days and 12 months prior to the date of the invitation to tender.

**5.8 Two Stage Procurement Process**

5.8.1 A two stage procurement process (under the Regulations, anything other than an “open” process) involves the invitation of expressions of interest from potential tenderers at stage 1 and then subsequently inviting tenders from those shortlisted at stage 2. In general, this is only permitted when the value of the contract is above the EU threshold.

5.8.2 A report must be prepared for the proposed decision to accept or reject the shortlist. That report must be in writing and contain service, legal and financial implications and fully document the circumstances and explain the process, including the criteria for choosing the shortlist.

## 6 Selection of Tenderers (previously Pre-qualification Requirements)

### 6.1 Grounds for Exclusion of potential tenderers

The Regulations provide for potential tenderers to be excluded on the following grounds:-:

(i) mandatory grounds: these are, in the main, for serious offences such as corruption, bribery, HMRC offences, fraud or theft, tax offences or money laundering. The exclusion lasts for 5 years; and

(ii) discretionary grounds: these include non-compliance with environmental or social and labour laws arising from certain international treaties, insolvency, grave professional misconduct, distorting competition, irremediable conflicts of interest and in certain circumstances poor prior performance. In relation to the latter ground, there must be of “significant or persistent deficiencies” in past contract performance which have led to early termination of the prior contract or to damages (but not liquid or ascertained damages) or other comparable sanctions.

### 6.2 Minimum Standards for Tenderers

6.2.1 Authorised Officers are responsible for ensuring that all persons awarded contracts have met the Council’s minimum standards of suitability, capability, legal status and financial standing.

6.2.2 When selecting tenderers, officers must follow the relevant Crown Commercial Service guidance in place from time to time unless there is good reason for departing from it. In particular the standard selection Questionnaire is to be used and only derogated from for project specific reasons. (e.g. where special technical requirements or professional ability are required,) which are relevant and proportionate. A report setting out the reason for any deviation has to be sent to the Cabinet Office.

6.2.3 Where the estimated value of a contract is below the EU threshold, Authorised Officers must not carry out a separate selection (pre-qualification) stage. Questions can be asked of candidates to check suitability, capability, legal status and financial standing but such questions must be relevant to the subject matter of the contract and proportionate.

## 7. Invitations to Tender

7.1 An invitation to tender/request for quotation must be sent out for all procurement processes listed in Table 1.

All invitations to tender must:

(i) clearly specify the goods, services or works that are required (subject to appropriate adjustment where any of the negotiated, competitive procedure with negotiation, competitive dialogue, or innovation partnership procedures are being used);

(ii) list the criteria on which the tender(s) will be evaluated (see Rule 8) showing the weighting of the various evaluation criteria unless otherwise advised by the Procurement Team and Legal Services;

(iii) include a requirement for tenderers to declare that the tender content, price and all other figures or particulars concerning the tender have not been disclosed by the tenderer to any other party;

(iv) include a requirement for tenderers to complete fully and sign all tender documents including certificates confirming that no canvassing or collusion has taken place; and

(v) state that the contract will be on the Council's conditions of contract which are to be enclosed with the invitation to tender.

## 8. Evaluation criteria

**8.1** Evaluation should be based upon the most economically advantageous tender.

**8.2** The evaluation criteria must be set out in the invitation to tender documents including scoring methodology and any weighting.

**8.3** The Council will apply the following general principles in selecting candidates/tenderers for an award of contract:

(i) suitability to undertake the activity. In relation to this criterion, such requirements must be related and proportionate to the subject matter of the contract;

(ii) economic and financial standing. In assessing this, the minimum yearly turnover that candidates/ tenderers are required to have cannot exceed twice the estimated contract value, except in duly justified cases, such as by reference to special risks attached to the nature of the goods/services or works. When there is a requirement for this limit to be exceeded, this has to be reported under the reporting requirements in these Rules;

Ratios between assets and liabilities may be taken into consideration where the method for such assessment is set out

in the evaluation criteria and where such method is transparent and non-discriminatory;

(iii) technical and professional ability. Authorised Officers may impose requirements that candidates possess the necessary human and technical resources and experience to perform the contract.

A requirement that candidates/tenderers have a sufficient level of experience demonstrated by suitable references from contracts performed in the past including for the Council can be imposed.

8.4 Life-cycle costing including warranties and post completion maintenance, energy consumption or recycling costs may be taken into consideration. The parameters should be set out in the evaluation criteria.

8.5 Environmental and social considerations can be taken into account provided that these are relevant to the subject matter of the contract.

8.5.1 In relation to environmental criteria, the following are examples of the matters which can be taken into account:

(i) the cost of reduction in greenhouse gases;
(ii) other climate change mitigation costs;
(iii) the impact of the activity under the contract on the environment;
(iv) other environmental related costs which are relevant to the subject matter of the contract.

8.5.2 In relation to social considerations, the following are examples of the matters which can be taken into account:

(i) mitigation of unemployment;
(ii) trainee opportunities for young people including apprenticeships;
(iii) opportunities for disadvantaged groups
(iv) other social consideration related costs which are relevant to the subject matter of the contract.

**8.6 Abnormally low tenders**

Authorised Officers must require tenderers to explain the price or costs proposed in the tender where tenders appear to be abnormally low. The tender can only be rejected where the evidence supplied by the tenderer does not satisfactorily account for the low level of the price or costs.

## 9. Terms and Conditions of Contracts

9.1 Terms and conditions for all contracts for goods, services and works must

be in accordance with terms and conditions prepared or approved by the Director of Law unless otherwise agreed by the Director of Law.

**9.2 Payment terms**

All contracts (whatever their value) shall require that:

(i) any payment due from the Council is made no later than 30 days from the date on which the relevant invoice is regarded as valid and undisputed;

(ii) any invoices submitted by the contractor are considered and verified by the Council in a timely fashion

(iii) the contractor is required to impose conditions similar to those in (i) and (ii) in any subcontract require and to procure the imposition of similar obligations in any further subcontract(s).

**9.3 Liquidated and Ascertained Damages**

All service and works contracts with a value of £50,000 or more, shall provide for liquidated damages, save where approved otherwise as not appropriate in accordance with the Scheme of Delegation

**9.4 Security and Guarantee**

9.4.1 The Council shall take such security and/or guarantee for the due performance of every contract as is sufficient in all the circumstances.

9.4.2 A performance guarantee bond and/or parent company guarantee may be required as a condition for the award for contract having taken due account of the risks, if any, to the Council in entering into a contract for the carrying out of works or provision of services.

9.4.3 In relation to a contract with a value above £50,000 the decision maker shall consider whether there is a need to take security against the contractor's performance and the contractor's potential liabilities taking account of the risks associated with the subject matter of the contract, in particular whether the risks of the procurement low.

9.4.4 All tender documentation for contracts over £50,000 shall make reference to the potential for taking security in the form of a guarantee bond and/or parent company guarantee.

**10 Receipt and opening of tenders**

**10.1 Submission of Tenders**

The usual process for the submission and opening of tenders is set out in Table 2. The standard procedure is for submission by electronic means. The hard copy procedure should only be used in exceptional circumstances and when its use would not be a breach of the Regulations. In circumstances where the contract specification can be established with precision and with the approval of the decision maker, the Council may conduct an electronic auction prior to the award of the contract in order to achieve the most economic price.

A different approach may be taken to that set out in Table 2 if the decision maker approves. In particular, where the estimated value is above that of a low value contract, approval must be obtained for use of one of the approaches listed below:-

- A Dynamic Purchasing System
- An electronic auction
  (and see Rule 18 – Exemption from Contract Procedure Rules)

**Table 2**

| Category | Electronic | | Hard Copy | |
|---|---|---|---|---|
| | **Submission** | **Opening** | **Submission** | **Opening** |
| **A** | Submitted via the London Tenders portal. All Tenders are held securely on the portal unopened until the time appointed for their opening. | Opened after the submission deadline by an independent verifier, being someone from the Council's governance team or as authorised by the Pre-Tender Authorisation Report. | Returned in a plain sleeved envelope/ package, with no reference to the tenderer, marked with the word 'Tender', Subject and Date to the ***Chief Executive.*** Tenders shall remain in custody of the recipient until opening. | Opened at the same time after submission deadline by the ***Chief Executive*** or an officer designated by him/ her in writing in the presence of an officer approved by the Executive Director for Corporate Services or Director of Law. |
| **B** | Submitted via the London Tenders portal or other electronic means authorised by the Pre-Tender Authorisation Report. All Tenders are held securely on the portal unopened until the time appointed for their opening. | Opened after the submission deadline by an verifier from the Council's governance team or as authorised by the Pre-Tender Authorisation Report. | Returned in a plain sleeved envelope/ package, with no reference to the tenderer, marked with the word 'Tender', Subject and Date to the ***Executive Director.*** Tenders shall remain in custody of the recipient until opening. | Opened at the same time after submission deadline by the ***Executive Director*** or an officer designated by him/ her in writing in the presence of an officer approved by the Executive Director for RRE or Director of Law. |
| **C** | Submitted via electronic means (the London Tenders portal or email). All Tenders are held securely unopened until the time appointed for their opening. | Opened after the submission deadline with all tenders being opened at the same time. | Returned in a plain sleeved envelope/ package, with no reference to the tenderer, marked with the word 'Tender', Subject and Date to the ***Director.*** Tenders shall remain in custody of the recipient until opening. | Quotations shall be opened at the same time after the submission deadline in the presence of a ***Director*** or an officer designated by him/her in writing and an officer approved by the relevant Executive Director. |

**10.5 Late Submissions, Errors, Discrepancies, Clarifications and Alterations**

10.5.1 A tender or quotation received after the time and date specified in the invitation shall not be accepted or considered unless exceptionally at the time of receipt, other tenders have not been opened and the decision maker so authorises in writing.

10.5.2 Where there are errors or discrepancies in a tender, the tenderer is to be given details of these and afforded an opportunity of clarifying, confirming or withdrawing the tender.

10.5.3 No alteration (other than one arising from clarification) shall be made to any tender after the time fixed for the submission of that tender, save in circumstances approved by the decision maker.

**11. Evaluation of Tenders, Quotes and Mini-Competitions**

11.1 Authorised Officers must ensure that appropriate directorate or other Council technical and financial officers evaluate all tenders and quotes, including those in mini-competitions under Framework Agreements, in accordance with the evaluation criteria specified in the invitation to tender.

11.2 The arithmetic in compliant tenders or quotes, including those in mini-competitions under Framework Agreements, must be checked. If arithmetical or clerical errors are found they should be clarified and/or notified to the tenderer, which should then be requested to confirm the correct figures/wording or withdraw its tender.

11.3 Authorised Officers must compare submitted tender prices with any pre-tender estimates. All differentials must be considered. For the position where tender prices exceed the pre-tender estimate see Rule 13.

**12. No Material Changes to Contract Post-Tender**

No material changes may be made to the proposed arrangements and terms and conditions post tender. See Rule 17 (Extensions and Variations) for requirements when the contract has been entered into.

**CONTRACT AWARD**

**13. Authorisation for the Award of Contracts**

13.1 Contracts may only be awarded where there has been full compliance with these Rules and the Financial Procedure Rules.

13.2 A written report must be drafted in all circumstances setting out the procurement process carried out and the reasons for rejecting or accepting each tender received.

13.3 The decision maker for award of contracts is the body or person set out in and authorised by the Council or Mayoral (as appropriate) and Directorate Schemes of Delegation.

**Energy and Water contracts**

13.4 Volatility in prices requires a different approach for the award of energy and water contracts.

13.5 At the “Submission of tenders and the “Evaluation” stages, officers shall undertake proper checks and analysis and prepare a report to the decision maker on the outcome with a recommendation for the award of contract.

13.6 An information report shall be presented to Mayor & Cabinet once each year. The report will summarise the contracts awarded during the previous 12 months and the financial implications for budget holders. The parameters for the delegation will also be reviewed at the same time.

13.7 **Contracts Exceeding the Written Estimate**

There may be circumstances where “Expenditure per contract” is greater than the original ‘Estimated expenditure per contract’ (See Rule 4.1). The decision maker will be different depending on the degree of disparity between ‘Expenditure per contract’ and Estimated expenditure per contract’.

## 14. Scrutiny and Standstill Period

### 14.1 Scrutiny

If the award of a contract by the Executive is a Key Decision, for example, where the value of the contract exceeds £200,000, Article 16 of the Constitution applies. This means that, subject to the urgency provisions in the Constitution, the decision must be included in the Key Decision Plan **before** the decision to award is made. A Key Decision will be subject to scrutiny by the Business Panel of the Council. It is therefore necessary to observe all scrutiny timescales between the award of contract and the execution of the contract.

### 14.2 Standstill Period and Notification Letter

**Notification Letter**

14.2.1 For EU tenders, once award of contract has been approved, successful

and unsuccessful tenderers (including those that have expressed an interest in the contract, unless they have already been rejected and informed of that rejection and the reasons for it) must be notified of the award of the contract for which they have submitted a tender ("Notification Letter").

14.2.2 The Notification Letter must include the relative advantages and characteristics of the successful tenderer as well as the name of the successful tenderer.

**Standstill Period**

14.2.3 There is then a standstill period that will last for 15 days or can be reduced to 10 days where the Notification Letter is issued via electronic means. The standstill period is to enable unsuccessful bidders to challenge the award of a contract. Therefore the Council must not enter into the contract before the end of the standstill period. Once the standstill period has expired without a court challenge the Authorised Officer shall inform the successful tenderer.

**14.3 Execution of Contract**

All contracts shall be in writing and shall be signed on behalf of the Council or executed as follows:

(i) **Table 3 Goods, Services and Works**

| **Cumulative value of contract** | **Executed by** |
|---|---|
| Above £200,000 | sealed by the Director of Law on behalf of the Council |
| Below £200,000 but above £100,000 | Signed by the Executive Director and at least one other officer |
| Below £100,000 | Signed by the Executive Director or in accordance with the relevant Directorate Scheme of Delegation |

(ii) **Table 4 Property Contracts**

In relation to contracts for the acquisition, sale or grant of any interest in land ("Property Contracts")

| Cumulative value of contract | Executed by |
|---|---|
| Below £200,000 | Signed by<br>- Director of Law; or<br>- Executive Director; or Director of Regeneration and Place |
| Above £200,000<br>Transaction is to be effected by a separate transfer, lease or other form of deed | Signed by<br>- Director of Law; or<br>- Executive Director (and at least one other officer duly authorised by them). |

**15. Commencement of Contracts**

15.1 No supply of goods, services or works may commence until all contract documentation is duly completed (see **Rule 14**), except in cases of extreme urgency falling under Rule 18.3(b), in which case the contract documentation must be completed at the earliest opportunity.

15.2 Where there has been a tender for works (but not goods or services) and the contract price only holds good for a limited period or there is some other circumstance beyond the Council's control delaying completion of formal contract documentation, a contract may be formed by letter which records all the provisions of the contract and is approved and signed by the decision maker.

15.3 Formal contract documentation must be completed at the earliest opportunity and signed or sealed as appropriate depending on its value. This procedure must not be used if there are any outstanding or unresolved contract provisions unless this is agreed by the decision maker.

**POST-AWARD**

**16. Contract and Risk Management**

**Risk Register**

16.1 The Contract Manager must maintain a risk register during the contract period highlighting the risk and mitigation strategy for the contract and, for identified risks, must ensure contingency or risk mitigation measures are in place

**16.2 Records and Reports**

16.2.1 Copies of all concluded contracts must be retained for 6 years or if they are under seal for 12 years from the date of termination or expiry of the contract.

16.2.2 Authorised Officers must inform the Procurement Team and their relevant Corporate Procurement Board member promptly of all contracts (including Call-off Contracts) awarded (and preferably within 5 working days of the date of the award) so that:

(i) details of the contract can be added to the Directorate and the Council's electronic contracts register via the London Tenders Portal;

(ii) the Procurement Team can ensure details of the contract award has been published on Contracts Finder; and

(iii) the Procurement Team has the necessary information to provide, if so required, a report to the European Commission.

16.2.3 For EU tenders, (including Light Touch Regime contracts) a legally compliant award notice must be published no later than 30 days from the award of the contract or the conclusion of the Framework Agreement.

16.2.4 For all contracts in excess of £50,000, the details of the contract must be published via the London Tenders Portal to ensure compliance with the Transparency Code 2015.

**16.3 Reporting other information required by the Cabinet Office**

The Regulations require contracting authorities to send to the Cabinet Office such information as it requires from time to time in respect of procurements. Currently this includes decisions not to subdivide contracts into Lots, how conflicts of interest are handled, non-application of the Regulations in certain circumstances, the use of the negotiated procedure under the Regulations and failure to pay contractors invoices on time. It is therefore a strict requirement that Authorised Officers keep a record of all procurement decisions throughout the whole of the procurement and during operation of the contract.

**17 Permitted Extensions and Variations of Contracts and Framework Agreements**

There are six categories under which post award changes to contracts entered into following an EU tender, or where the value was above the EU threshold are permitted. They are set out below. The Council will follow an equivalent approach where the contract was not entered into following an EU Tender or where the value of the contract is below the EU threshold:

17.1 Changes which were clearly provided for in the original procurement and contract documents – e.g. a price revision clause which may take account of changes in inflation.

- The scope and nature of the possible changes must be clear as must the conditions under which the review clauses can be used.
- The changes must not alter the overall nature of the contract.

17.2 Necessary changes to purchase new works, services or supplies from the contractor and not included in the original procurement – e.g. purchasing a new piece of software from the contracted IT provider which is required to interface with an existing system from the same IT provider.

- This can only be relied on where a change of contractor would cause significant inconvenience (or substantial duplication of cost) or, a change of contractor cannot be made for economic or technical reasons.
- In addition, the change must not result in an increase in price of more than 50%. This price limit applies to each separate change however, it must not be used as a means of circumventing the procurement rules.

17.3 Changes to deal with unforeseen circumstances – e.g. the discovery of asbestos means it is necessary to move a service unexpectedly to a different location and pay the contractor to facilitate the move.

Changes must not alter the overall nature of the contract or result in an increase in price of more than 50% of the value of the original contract. Again, this price limit applies to each separate modification.

17.4 Changes which deal with replacing the contractor

A new contractor may replace the original contractor where:

- the change is envisaged in the contract or procurement documents; or

- the replacement is as a result of "corporate restructuring" provided the new contractor meets the pre-qualification criteria; and the change in contractor does not result in other substantial amendments to the contract.

17.5 Changes which are "not substantial"
Changes are not substantial if:

- the contract is not materially different in character from the one concluded; or
- they have not altered the outcome of the procurement/ the selected participants; or
- the economic balance of the contract has not shifted in favour of the contractor; or
- the scope of the contract has not been extended ‘considerably’; or

- a new contractor has been replaced the original contractor as above.

17.6 Changes with a low value –

The value attributable to the change must:

- fall below the relevant procurement threshold; and
- be less than 10% of the initial contract value for supplies and services contracts or less than15% of the initial contract value for a works contract

17.6.1 The change must not alter the overall nature of the contract.

17.6.2 It is possible to make more than one change with a low value, however the cumulative value of the changes must not exceed the relevant procurement threshold.

## GENERAL

### 18. Exemption to the Contract Procedure Rules

18.1 An exemption to the Contract Procedure Rules can only be authorised by the decision maker in exceptional or unforeseen circumstances.

18.2 To authorise the exemption, the decision maker must be satisfied after considering a written report by the appropriate officer that the exception is justified because:

a) the nature of the market for the works to be carried out or the goods and/or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Contract Procedure Rules is justifiable; or

b) the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or

c) there are other circumstances which are genuinely exceptional;

and in all cases:

- it is in the Council's overall interest;
- and the circumstances of the proposed contract are covered by legislative exceptions (whether under EU or UK law).

18.3 The written report must fully document the circumstances and explain why the exemption is required.

18.4 Where an exemption to the Contract Procedure Rules is sought for a second time in relation to the same contract, then regardless of the value of the contract, that exemption must be reported to the appropriate member decision forum.

**18.5 Contracts to which the rules on tendering do not apply**

18.5.1 There are circumstances where the Regulations do not require the Council to tender a contract. These include:

(i) where the Council sets up a separate legal entity and then awards contracts to that legal entity. For this exception to apply a two part test has to be satisfied, relating to control and activity:

- Control: the Council has to exercise sufficient control over the separate legal entity; and
- Activity: the separate legal entity has to carry out the essential part of its activities for the Council.

(ii) the Council enters into a co-operative arrangement with participating authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common.

- For this to apply, the implementation of that co-operation must be governed solely by considerations relating to the public interest; and

- the participating contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation.

**18.6 Reserved Contracts- mutuals**

The Council may reserve to qualifying organisations the right to participate in procedures for the award of a reservable public service contract. The contracts that are reservable apply only to certain categories of services and legal advice must be sought before relying on this rule.

18.6.1 A qualifying organisation is one which must meet the following conditions:

(a) its objective is the pursuit of a public service mission linked to the delivery of services that fall within the reservable category;

(b) profits are reinvested with a view to achieving the organisation's objective, and any distribution of profits is based on participatory considerations;

(c) the structures of management or ownership of the organisation are (or will be, if and when it performs the contract) —

(i) based on employee ownership or participatory principles, or

(ii) require the active participation of employees, users or stakeholders; and

(d) the organisation has not been awarded a contract for the services concerned by the Council within the past 3 years.

18.6.2 The maximum duration of a contract awarded under this exemption cannot be longer than 3 years. Any subsequent contract must be re-tendered on the open market in competition with all interested bidders.

## 19. Non-compliance with these Rules

19.1 Every contract entered into by the Council for the carrying out of works, or for the supply of goods or services shall be for the purpose of achieving the Council's statutory or approved objectives and shall conform to all relevant European and UK legislation and Council policy.

19.2 These Contract Procedure Rules are mandatory and shall govern and regulate Council procurement and contract award procedures. Authorised Officers must also refer to the Procurement Team for more detailed procedures some of which are compulsory.

19.3 The primary objective of these Contract Procedure Rules is to ensure that the Council obtains value for money and fulfils its duty of best value as defined in Section 3 of the Local Government Act 1999 in all its procurement activity. They also provide a basis for fair competition by providing transparent and auditable procedures to protect the Council's reputation from any imputation of dishonesty or corruption.

19.4 For these reasons it is a disciplinary offence to fail to comply with Contract Procedure Rules when letting contracts and employees have a duty to report breaches of these Contract Procedure Rules to an appropriate senior manager or internal auditor.

# J COMMITTEES - GENERAL RULES

## 1. Political balance

Save where the law provides otherwise, each committee and sub committee must comply with the political balance requirements of Section 15 and 16 Local Government and Housing Act 1989. Although not required under the 1989 Act, membership of the Licensing Committee (but not its sub-committees) shall also comply with the political balance requirements. Membership of the Health and Wellbeing Board does not need to be politically balanced.

## 2. Proceedings

Each Committee (with the exception of the overview and scrutiny committee and the Health and Wellbeing Board) will have authority to institute, compromise, defend or settle any legal proceedings within their terms of reference. Such committees may also incur the necessary expenditure to do so.

## 3. Sub committees

Every committee may appoint a sub-committee for any purpose within their terms of reference. Special provisions relate to Health and Wellbeing Boards (see paragraph C32)

## 4. Chairing Committees

No person may be elected as Chair or Vice Chair of a Committee or sub-committee unless he/she is an elected member of the Council. Special provisions relate to Health and Wellbeing Boards (see paragraph C32)

## 5. Membership of sub committees

At least a majority of every sub-committee must be elected members of the Council. Special provisions relate to Health and Wellbeing Boards. See Article 9.4 for its composition

## 6. Discontinuance of sub committees

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

## 7. Quorum

(a) In the case of all committees and sub-committees, no business may be conducted unless at least one quarter of the entire number of

councillors on the committee are present. Special provisions relate to Health and Wellbeing Boards (see paragraph C32)

(b) Notwithstanding (a) above, in no case shall the quorum for any committee (or a sub-committee) be less than 3.

(c) If there is no quorum after 15 minutes from the time shown in the summons for the start of the meeting, then the meeting will not take place.

(d) If a meeting becomes inquorate during its proceedings, business must be suspended. If after 5 minutes there is still not a quorum present, the meeting shall terminate.

**8. Meetings open to all members of the Council**

Subject to the provisions of the Council's Member Code of Conduct, a member of the Council wishing to attend any meeting of any committee or sub-committee of which he/she is not a member may do so. Save to the extent expressly provided to the contrary in the Constitution, he/she shall not take part in the proceedings without the consent of the committee or sub-committee. He/she may not vote.

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

The appointment of a Chair and Vice Chair shall be the first business at the first meeting of every committee in any year.

**10. Absence of Chair**

In the absence of the Chair from a meeting, the Vice-Chair will preside. If neither are present, a chair for that meeting shall be elected.

**11. Limitation on chair/vice chair and members of the Executive**

Executive members may not chair standing committees or sub-committees. Subject to exceptions set out in this paragraph, the Chair or Vice-Chair of a standing committee or sub-committee shall not be the Chair of any other standing committee or sub-committee. However, this rule does not prevent the chair of any committee chairing a sub-committee of the committee they chair or the Strategic Planning Committee or an Appointments Committee.

**12. Limitation on membership of committees**

Members of the Executive may not also be members of the overview and scrutiny committee or any of its select committees or the Business Panel. Executive members may however be members of any other committee or sub-committee of the Council subject to any limits set out in law or this Constitution.

**13. Duties of the Chair and Vice Chair of Committees**

The Chair of a committee shall:-

(1) preside at every meeting at which he/she is present

(2) be an ex officio member of every subcommittee appointed by the committee of which he/she is chair.

(3) (Except in the case of the select committees appointed by the Overview and Scrutiny Committee,) preside at those sub-committees unless the subcommittee decides otherwise.

(4) be entitled to vote in the first instance and in the case of equality of votes, to give a casting vote, whether he/she voted in the first instance or not.

(5) if present, sign the minutes.

(6) if present, submit any report of the committee to the Council and move it under Rule C 3(2)

The Vice Chair of the committee shall:-

(1) be an ex officio member of all sub-committees appointed by the committee of which they are the Vice Chair

(2) in the absence of the chair, preside at meetings of the committee or sub-committee as appropriate. In doing so, the Vice Chair will have the same powers and rights as the Chair.

**14. Special meetings**

(a) The Chair may call a special meeting of the committee he/she chairs at any time. A special meeting may also be called on the requisition of a quarter of the whole number of the committee or sub-committee delivered in writing to the proper officer stating the business to be considered. However, in no case shall 2 or fewer members requisition a special meeting of any committee or sub-committee.

(b) The summons to a special meeting shall set out the business to be considered and subject to Rule G5 (Urgency) no business other than that set out in the summons shall be considered at that meeting.

(c) The meeting will take place within a maximum of 21 days of the receipt of the requisition by the proper officer.

**15. Joint meetings of Committees**

(a) Two or more committees may meet jointly to consider business of their mutual concern. At such joint meetings a Chair for that meeting shall be elected from the whole membership present.

(b) Decisions at joint meetings shall nevertheless be determined separately by the particular committees within whose terms of reference the matter to be decided falls. Only the Chair of the committee concerned shall have a casting vote.

(c) Each committee must be quorate for business to be conducted at the joint meeting.

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

(e) The minutes of a joint meeting shall be referred to the next meeting of each of the participating committees for approval and signature under the procedure specified in Rule C23 (minutes)

**16. Resignations**

Any member may resign from a committee or subcommittee by giving written notice signed by him/her to the proper officer. The resignation takes effect immediately on receipt.

**17. The proper officer**

References in this Constitution to the proper officer shall be to the Chief Executive or such person as he shall nominate in writing to all members of the Council to be the proper officer for any purpose.

# K Financial Regulations - THESE REGULATIONS ARE SUBJECT TO FINAL APPROVAL BY THE S151 OFFICER

K Financial Regulations

## 1. Introduction

**1.1.** The Regulations in the following paragraphs lay down the procedures to be followed by officers in discharging their financial duties. They are effective from October 2019. Executive Directors are responsible for ensuring the officers in their directorates comply with these Regulations and any guidance issued by the Executive Director for Corporate Services.

**1.2.** Attached to these Regulations are the Financial Procedures issued by the Executive Director for Corporate Services. These are integral to the Regulations and provide further explanation of the procedures to be followed by officers in discharging their financial duties. Financial Procedures are updated from time to time by the Executive Director for Corporate Services to reflect new and/or changing issues.

**1.3.** The Regulations and Financial Procedures form part of the Council's regulatory framework alongside the Constitution and the annual scheme of delegation and must be adhered to by council officers. Failure to comply with the Regulations and Financial Procedures may constitute misconduct, including gross misconduct, and lead to formal disciplinary action.

**1.4.** In the following Financial Regulations, the term 'Executive' refers to the Mayor, the Mayor and Executive members collectively, or individual Executive members insofar as the Mayor has retained executive powers for him/herself or has delegated authority to the Executive collectively or individually for the activity referred to (Council Rules of Procedure and Standing Orders, Part IV, Section D3 of the Constitution). Reference should be made to the current scheme of delegation to ascertain the person or body currently exercising executive power for the activity in question.

**1.5.** Under the Constitution adopted by Lewisham Council with effect from 15 August 2008, the scheme of delegation is adopted annually. The annual scheme of delegation consists of delegations of executive functions and powers from the Mayor (Article 15.2 and Council Rules of Procedure and Standing Orders, Part IV, Section D3–6) and the delegation of non-executive functions by the full Council (Article 15.1). Financial Regulations and Procedures must be read in conjunction with the scheme of delegation currently in force.

**1.6.** Information on the current scheme of delegation can be obtained from the Monitoring Officer. Where an executive function is delegated to the Executive collectively or an individual Executive member, an officer, area committee, joint committee or another local authority (D3), the rules, procedures, financial limits and reporting of financial

matters as set out in Financial Regulations and Procedures shall remain in force, except where another arrangement is specifically set out in the formal delegation of executive authority. In any instance, any breach of Financial Regulations and Procedures shall be reported to the Executive Director for Corporate Services.

## 2. A Roles and responsibilities statement

### 2.1. Chief Finance Officer

A.1. S151 Local Government Act 1972 requires a named officer, who must be a CCAB qualified accountant, to take responsibility for the proper administration of the Council's financial affairs. S114 Local Government Finance Act 1988 requires the Chief Finance Officer to make a public report in specified cases of actual or anticipated financial misconduct or if there is a potential budget deficit. In Lewisham, these duties are normally vested in the Executive Director for Corporate Services. However, from November 2018 till further notice, duties in respect of S151 and the Corporate Services Directorate are vested in the Director of Corporate Resources. The Acting Deputy S151 Officer shall be the Director of Financial Services for the same duration.

A.2. The Council's Constitution sets out the following as the functions of the Chief Finance Officer:

a) Ensuring lawfulness and financial prudence of decision making. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer to report to the full Council, or to the Executive in respect of executive functions, and the Council's external auditor, if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

b) Administration of the Council's financial affairs. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

c) Providing advice. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial propriety, probity and budget and policy framework issues to all Members and will support and advise Councillors and officers in their respective roles.

d) Giving financial information. The Chief Finance Officer will provide appropriate financial information to the media, members of the public and the community.

A.3. The Executive Director for Corporate Services is also specifically responsible for advising and reporting to the Executive on the resources required to implement council policies, including financing partnership arrangements

- the level of Council Tax to be levied
- the Council's prudential guidelines, in particular forward projections of revenue commitments and the budget strategy
- the annual borrowing limit

- the Capital Programme
- the Treasury Strategy
- arrangements for financial administration, including accountancy, audit and risk management
- the Annual Statement of Accounts and its publication

A.4. The Executive Director for Corporate Services also has a statutory duty to ensure that the accounts and supporting records of the Council are maintained in accordance with proper practices and kept up to date. Also, that the accounts present fairly the financial position and that reasonable steps have been taken for the prevention of fraud and other irregularities.

A.5. The Executive Director for Corporate Services shall have access to all financial records held in the Council and require explanations from Council officers as necessary.

A.6. The Executive Director for Corporate Services shall oversee Council procedures regarding debt recovery determined by the Executive Director for Housing, Regeneration and Environment.

A.7. The Executive Director for Corporate Services shall receive a report, from the appropriate Executive Director, of any material breach of financial regulations or procedures. If deemed to be of a serious nature, then the Executive Director for Corporate Services shall submit an appropriate report to the Executive.

**2.2. Executive Directors**

A.8. Executive Directors have overall accountability for the finances of their directorate and must ensure there are proper systems for financial administration and control in place. Executive Directors shall consult the Executive Director for Corporate Services on any matter which is liable materially to affect the finances of the Council before any provisional or other commitment is incurred and before reporting to the Executive. The duties in respect of Regeneration, Planning and Transport, Property and Building Control are now permanently delegated to the Executive Director for Housing, Regeneration and Environment, whilst the duties in respect of Public Services are now permanently delegated to the Executive Director for Corporate Services.

A.9. Executive Directors shall ensure that accounting systems and procedures within their directorates incorporate adequate controls to safeguard against loss and fraud. Executive Directors shall ensure that officers in their directorates have adequate training in order for them to comply with financial regulations.

**2.3. Directors**

A.10. Under the arrangement for financial devolution, there shall be two Directors designated to support Executive Directors and budget holders in discharging

their financial and budgetary responsibilities. The Directors of Service shall be as follows:

- Director of Corporate Resources and Deputy S151 officer
- Director of Financial Services

A.11. They shall be accountable to the Executive Director for Corporate Services for all matters pertaining to Section 151 responsibilities as they affect the Council's finances. Where a potential conflict arises between the service considerations and the S151 duties, the S151 duties must prevail.

## 2.4. Decision making

A.12. Where officers make decisions under delegated authority, they shall record their decisions and the reasoning behind them and shall store those records in such a way as to be accessible for scrutiny, audit and inspection.

A.13. Where officers make a Key Decision under delegated authority, they shall only do so on the basis of a written report that contains service, corporate, financial and legal and all relevant considerations. Officers shall further comply with all other requirements of Key Decisions as set out in the Rules of Procedure and Standing Orders (G23).

## 2.5. Key Decisions

A.14. The Constitution identifies certain executive decisions as being Key Decisions (Article 16.2) and sets out in Part IV the procedures that must be followed when Key Decisions are made (Rules of Procedure and Standing Orders G12–25). These procedures apply whether a Key Decision is exercised by the Mayor or is delegated to the Executive collectively or an individual Executive member, by an area committee, joint committee or another local authority, an individual ward member (to the extent the function is exercisable within the ward), or by an officer. The full list of Key Decisions is set out in Article 16.2 of the Constitution. The following list highlights those Key Decisions most directly related to financial matters:

- decisions which will involve expenditure or savings of £500,000 or more (save treasury management transactions taken in accordance with the Council's Treasury Management Strategy as approved by the Council)
- Any decision having a significant impact in two or more wards, whether the impact is direct (e.g. where the decision relates to a road which crosses a ward boundary) or indirect (e.g. where the decision relates to the provision or withdrawal of a service which is or would be used by people from two or more wards). Decisions will still be deemed to affect more than one ward even if one or more of the wards affected is outside the borough
- consideration of any report relating to the possibility of the withdrawal of delegation of budget from a school
- the Council's scheme for the financing of maintained schools
- closure of, or a significant reduction in the provision of, any Council service

- the fixing of fees and charges for Council services
- granting or withdrawing financial support to any external organisation in excess of £10,000
- writing off any individual bad debt in excess of £50,000, unless the Council has within the last three years already written off debts for the person/organisation concerned totalling that amount, in which case any further write off would be a Key Decision
- the disposal of any council property for less than best consideration
- the disposal of any interest in council property with a value of £500,000 or more
- the taking by the Council of an interest in land worth £500,000 in total
- the granting of any interest in land where the interest is valued at £500,000 or more
- applications for funding from any external body which if successful would also require council match funding of £500,000 or more, or entail a revenue commitment of at least £500,000 in total by the Council
- the award of a contract with a total value of £200,000 or more
- consideration of any matter in which, to the decision-maker's knowledge, the decision-maker (or any member of a committee or subcommittee making the decision) has an interest which ought to be declared ; an interest includes a family member, friend, employer or organisation with which the member is associated

Where there is any doubt as to whether a decision is a Key Decision, it should be treated as if it were a Key Decision in any event.

## 3. Financial planning and financial accountabilities

### Annual revenue budget and budgetary control

### 3.1. Budget format

B.1. The general format of the budget will be approved by the Council and proposed by the Executive on the advice of the Executive Director for Corporate Services. The draft budget should include indicative cash limits for different services and projects, proposed taxation levels and contingency funds.

### 3.2. Budget preparation

B.2. The Executive Director for Corporate Services is responsible for issuing guidance on the general content of the budget. Following approval of the budget for the forthcoming year by full Council, the Executive Director for Corporate Services will allocate resources for discharge by the directorates, which will operate within allocated cash limits.

B.3. Financial control and administration is the responsibility of officers in finance, with responsibility for budgetary control and financial monitoring vested in the budget holders. Executive Directors shall prepare budgets in accordance with guidance given by the Executive Director for Corporate Services.

B.4. Officers shall ensure that the Executive and delegated decision-makers have the fullest information to enable them to exercise responsibility for the financial and other resources made available. Officers shall further ensure that such information is given in writing and includes service, legal and financial implications and a consideration of options. They shall further ensure that such information is made available to executive decision-makers within a sufficient timescale to allow them to give the matter proper consideration. Officers shall further ensure that all reports that have financial implications are forwarded to the Executive Director for Corporate Services, who shall advise of the financial implications before the report is considered by the executive decision-maker.

### 3.3. Budget monitoring and control

B.5. Executive Directors are accountable for ensuring effective budgetary control within their directorates. They shall establish budgets for directorate services and shall ensure that such budgets are properly and effectively managed by named budget holders. These budget holders shall ensure that their expenditure does not exceed their budget and that any required budget income target is achieved so as to meet their cash limit. Executive Directors are accountable for ensuring that their aggregate directorate cash limit is not overspent and they comply with the rules governing virements as set out within the Financial Procedures and Directorate Schemes of Delegation.

B.6. Budget holders have operational responsibility for budgetary control. They shall record financial commitments against their budgets, monitor their budgets and reconcile their own records to the Council's financial information system on a regular basis and take corrective action promptly to deal with any problems that may arise. In carrying out their budgetary responsibilities, they shall comply with any guidelines issued from time to time by the Executive Director for Corporate Services.

B.7. At the end of the financial year and following closure of the revenue accounts, Executive Directors will report to the Executive Director for Corporate Services on the outturn of expenditure and income and the comparison with the approved budget. The Executive Director for Corporate Services will report on the aggregate of the revenue outturn for all services to the Executive and full Council.

### 3.4. Budget Virements (Please see definition at end)

B.8. All budget virements shall be in accordance with the Financial Procedure for budget preparation and the limits set by Council. Currently Executive Directors can vire up to £500,000 with the approval of the Executive Director for Corporate Services. The delegated limits are set out in each Directorate's Scheme of Delegation. Executive approval is required for budget virements between £500,000 and £1m and full Council approval for budget virements of £1m and over.

### 3.5. Treatment of year-end balances

B.9. The Executive Director for Corporate Services is responsible for agreeing procedures for carrying forward under and over-spendings on budget headings as part of the final outturn.

### 3.6. Resource allocation

B.10. The Executive Director for Corporate Services is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's policy framework.

### 3.7. Capital expenditure

B.11. The budget virement regulations pertaining to capital expenditure relate to new schemes, as budget virements from one scheme to another are not permitted. However, budget virement levels are set to ensure that new schemes have the appropriate level of approval as follows:

- up to £500k on the Council's capital programme delegated to Executive Director for Corporate Services
- over £500k and up to £1m on the Council's capital programme delegated to the Mayor
- over £1m on the Council's capital programme full Council.

B.12. At the end of the financial year and following closure of the capital accounts, the Executive Director for Corporate Services shall report to the Executive on the aggregate of capital expenditure compared to budget and the financing of the expenditure.

### 3.8. Repairs and Maintenance

B.13. For Repairs and Maintenance items, the Director for Regeneration and Place may determine to move resources between schemes and divert their Repairs and Maintenance allocation towards any stream of revenue payments due under PFI or PPP contracts.

B.14. Capital and revenue projects will be managed in accordance with Lewisham's Standard for Project Management as contained in the Financial Procedures.

**Accounting**

### 3.9. Accounting policies and standards

B.15. The Executive Director for Corporate Services is responsible for ensuring that the general principles adopted in compiling and presenting the annual audited accounts are in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC). Any deviations must be stated in the accounts.

B.16. The accounts and accounting records shall be prepared in accordance with Financial Regulations and Procedures as issued by the Executive Director for Corporate Services. Executive Directors shall close down accounts under their responsibility in accordance with the closing timetable and guidance notes issued by the Executive Director for Corporate Services.

B.17. Budget holders shall ensure that all expenditure and income transactions are recorded accurately on the Council's main financial information system by the use of the correct accounting code.

B.18. Executive Directors shall ensure that all systems of accounting and financial organisations in their directorates are regularly reconciled with the Council's main financial information system administered by the Executive Director for Corporate Services, and that the financial systems are kept up to date.

B.19. All financial systems shall be referred to the Executive Director for Corporate Services for agreement before introduction or revision.

B.20. Executive Directors shall observe the following principles in the allocation of accounting duties:

- the duties of providing information regarding sums due to or from the Council, and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.
- officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

**3.10. Maintenance of reserves**

B.21. It is the responsibility of the Executive Director for Corporate Services to advise the Executive and/or the full Council on prudent levels of reserves for the authority.

**4. Risk management and control of resources**

**4.1. Banking arrangements**

C.1. The Executive Director for Corporate Services (or an officer authorised in writing by the Executive Director for Corporate Services) is the only officer who can enter into banking arrangements on behalf of the Council.

C.2. Income receipts over £100,000 shall be notified to the Executive Director for Corporate Services' Treasury Team in advance, for treasury management purposes.

C.3. All instructions to draw on a bank account shall be made by the Executive Director for Corporate Services or an officer authorised in writing by the Executive Director for Corporate Services.

**4.2. Audit requirements**

C.4. All principal local authorities and other relevant bodies subject to the Accounts and Audit Regulations (Amendment) (England) Regulations 2006 should make provision for internal audit in accordance with this code of practice, and they must 'maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control'.

C.5. Public Sector Audit Appointments Ltd is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by Section 5 of the Audit Commission Act 1998, and section 20 of the Local Audit and Accountability Act 2014.

C.6. The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue & Customs, who have statutory rights of access.

**4.3. Internal audit function**

C.7. The Council's internal auditors have access, by law, to all financial and other records. Officers shall allow the Council's internal audit service access to such financial and other records as they may require.

**4.4. Preventing fraud and corruption**

C.8. The Executive Director for Corporate Services is accountable for the development and maintenance of an anti-fraud and anti-corruption policy.

C.9. Executive Directors shall report promptly any suspected financial irregularity or fraud in their directorates or otherwise to the Executive Director for Corporate Services.

C.10. It is the responsibility of any employee discovering or having reasonable suspicion of any irregularity, misconduct or fraud immediately to notify the relevant Executive Director or Director of Corporate Resources. When so informed, the Executive Director shall appraise the circumstances and shall notify and discuss the action to be taken concurrently with the Director of Corporate Resources. All information shall be treated in complete confidence.

**4.5. Contracts, orders for works, goods and services**

C.11. Officers shall comply with Article 17.2 of the Constitution (Contracts) and the Council's Contract Procedure Rules (Part IV of the Constitution, Section I).

C.12. Article 17.2 requires that any contract entered into on behalf of the Council in the course of the discharge of an executive function must be in writing. Such contracts must be:

- signed by an Executive Director if the value is £100,000 or less
- signed by an Executive Director and at least one other officer if the value is between £100,000 and £200,000

- for contracts with a value of £200,000 or more, executed under the common seal of the Council and attested by the Director of Law or such person as he/she nominates.

C.13. When the Council proposes to enter into any contract, whether it relates to works (construction or engineering contracts) and/or the supply (including the hire and leasing) of all goods and services, the Contract Procedure Rules must be applied.

C.14. All contracts shall comply with the EEC Treaty and with any relevant European Directives currently in force in the United Kingdom, as well as all relevant national legislation.

C.15. A number of corporate contracts exist which provide value for money. Officers are not permitted to purchase any commodities covered by these contracts outside of these contracts without the approval of the Executive Director for Corporate Services.

**4.6. Accounting treatments**

C.16. Executive Directors shall ensure adequate arrangements for the certification of payments which provide proper verification and authorisation of sums due, including adequate internal division of duties and internal control. Expenditure incurred on contracts must not exceed the value of the contract regardless of authorised order and/or invoice approval limits.

C.17. Executive Directors are responsible for orders issued from their directorates, which should be specific regarding terms and conditions and as a minimum must include the Council's standard terms and conditions. The Finance team shall maintain up to date lists of authorised signatories and Executive Directors shall ensure compliance. Orders shall be issued for all work, goods or services to be supplied to the Council, with the exception of purchases made using the corporate credit card.

C.18. In all matters of payments, orders and payroll, officers shall follow the designated internal division of duties and internal control set by the directorate.

**4.7. Interests in contracts**

C.19. By law, officers are required to give written notice to the Chief Executive of any pecuniary, personal or prejudicial interest they may have in a contract which has been or is to be entered into by the Council, other than a contract to which they are a party. Members too are under a legal duty to declare any personal interest they may have in any contract.

C.20. Members and officers shall be required to abide by the Member and Employee Code of Conduct (copies of which are included as Part V of the Constitution), particularly in relation to their personal interests in contracts which have been or are to be awarded by the Council.

**4.8. Related Party Transactions**

C.21. Members, Executive Directors, Directors and all staff graded SMG1 and above shall state any declarations of interest or related party transactions at least once a year in accordance with the guidance issued.

**4.9. Consultants**

C.22. Officers shall follow the Contract Procedure Rules (Section I of the Constitution) and the Appointment of Consultants Procedure Rules (Resources and Regeneration intranet page).

**Assets and records**

**4.10. Corporate Assets**

C.23. The management of corporate assets shall be the responsibility of the relevant officer as detailed below:

Property and Accommodation – Director for Regeneration and Place
IT – Director of IT and Digital Services
Fleet – Director of Environment

C.24. Management of these assets includes maintaining a full inventory in a form determined by the Executive Director for Corporate Services, ensuring their security and arranging insurance through the Executive Director for Corporate Services.

C.25. These officers should ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

**4.11. Directorate Assets**

C.26. Each Executive Director shall be responsible for managing their directorate's assets, to include maintaining a full inventory in a form determined by the Executive Director for Corporate Services, ensuring their security and arranging insurance through the Executive Director for Corporate Services. All assets valued at purchase above £20,000 must be logged on the Oracle Cloud Fixed Asset Module maintained by the Core Accounting Team.

C.27. Executive Directors should ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

**4.12. Acquisition and Disposal of Assets**

C.28. Officers, in acquiring and disposing of assets, shall comply with the Council's Financial Procedures and Directorate Schemes of Delegation.

C.29. With regard to the acquisition and disposal of land and property, including the granting and taking of leases, licences, wayleaves and easements, all negotiations must be conducted either by or under the supervision of an

appropriately qualified officer or adviser. For the purpose of these regulations the appropriately qualified officers or advisers are the Executive Director for Corporate Services and the Director of Law. He/she shall expressly be required to approve any proposed terms in advance and thereafter the terms tentatively agreed. When disposing of land and property, the Executive Director for Corporate Services shall comply with Section 123 of the Local Government Act 1972 and if the disposal is at less than best consideration ensure that the necessary ministerial consents have been obtained.

C.30. Officers should note the definition of the disposal or write off of assets as a Key Decision in certain instances in Article 16.2c of the Constitution and shall comply with the Council's Rules of Procedure and Standing Orders (G12–25) where the disposal is a Key Decision.

C.31. Each Executive Director shall be responsible for keeping and maintaining full financial, staffing and other records necessary for the proper administration of their directorate's affairs. They shall supply such information and records to the Executive Director for Corporate Services on request. All records shall be maintained for the periods agreed with the Council's External Auditor.

C.32. Executive Directors shall not write off any land and building assets (except for the Executive Director for Corporate Services who has delegated authority up to £500,000), or any non-land and non-building assets above the financial value set by the Executive Scheme of Delegation (currently £20,000).

**4.13. Income**

C.33. All income receivable by the Council, in respect of work done, goods supplied or services rendered, under contracts, leases or other arrangements or agreements, or for any other reason, shall be properly collected, recorded and accounted for through the Council's main financial information system. Demands for income due shall be raised and posted/sent promptly. Written or printed receipts shall be issued immediately for cash income received by an officer of the Council. Sufficient information must be obtained to enable allocation of income to the correct outstanding charge or account. All income received, in whatever form, shall be banked without delay.

C.34. The Executive Director for Corporate Services is responsible for assessing the level of bad debt provision. Only the Executive Director for Corporate Services and the Executive Director for Housing, Regeneration and Environment (in relation to housing rent debt) are permitted to write off individual debts against the directorate bad and doubtful debts provision within the limits of their delegation authority (see table of delegated write-off limits in the Directorate's Scheme of Delegation), after all reasonable steps have been taken to collect the debt. Debts in excess of these limits shall be reported to the Executive.

C.35. Executive Directors shall note that Article 16.2c of the Constitution defines the write off of debt as a Key Decision where the debt is in excess of £50,000 or the Council has within the last three years already written off debts for the person/organisation concerned totalling that amount. In such cases, officers

shall follow the procedures for Key Decisions as set out in the Rules of Procedure and Standing Orders (G12–25).

C.36. The Executive Director for Housing, Regeneration and Environment, with delegated authority to write off up to £10,000 housing rent debt, will prepare a summary of debts written-off under delegated authority and submit this to the Executive Director for Corporate Services on an annual basis.

**4.14. Treasury management and leasing**

C.37. All treasury management and transactions, including investments and borrowings by the Council, shall only be undertaken as authorised by the Executive Director for Corporate Services. Also, the Executive Director for Corporate Services shall report these transactions to the Executive in accordance with the CIPFA Treasury Management Code of Practice. The Treasury Management Strategy approved by the Council specifies the parameters within which all treasury management dealings shall operate.

C.38. All securities which are the property of, or which are in the name of the Council or its nominees, shall be held in the custody of the Executive Director for Corporate Services. The registration of the Council's stocks, bonds and mortgages and the recording of all borrowing of money by the Council shall be carried out by the Executive Director for Corporate Services or under such arrangements as the Executive Director for Corporate Services may determine. All proposed finance leasing schemes should first be notified to the Executive Director for Corporate Services' - Core Accounting Team, who shall appraise them and direct on necessary arrangements and arrange for the Executive Director for Corporate Services to authorise them if necessary. All proposed operating leasing schemes should first be notified to the Executive Director for Corporate Services' – Group Finance Managers, who shall appraise them and direct on necessary arrangements and arrange for the Executive Director for Corporate Services to authorise them if necessary.

C.39. The Executive Director for Corporate Services is responsible for reporting to the Executive quarterly, and to the Audit Panel bi-annually, each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.

**4.15. Salaries, wages and pensions**

C.40. The full Council is responsible for determining how officer support for executive and non-executive roles within the authority will be organised. The Chief Executive is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

C.41. Executive Directors are responsible for controlling total staff numbers by:

- advising the Executive on the budget necessary in any given year to cover estimated staffing levels
- adjusting the staffing to a level that can be funded within the approved budget provision
- varying the provision as necessary within that constraint in order to meet changing operational needs and the proper use of appointment procedures.

C.42. The Council shall only pay such salaries, wages and pensions, compensations and other emoluments to employees or former employees as are permissible in law, and payment shall only be in a manner approved by the Executive Director for Corporate Services.

**4.16. Risk management and insurance**

C.43. The Executive is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Executive is responsible for ensuring that proper insurance exists where appropriate.

C.44. The Executive Director for Corporate Services is responsible for preparing the authority's risk management policy statement and strategy, for promoting it throughout the authority and for maintaining the Corporate Risk Register.

C.45. The Executive Director for Corporate Services is responsible for advising the Executive on proper insurance cover where appropriate and for effecting all insurance cover on behalf of the Council.

C.46. Executive Directors shall be responsible for identifying and effectively managing all significant risks within their directorates and for maintaining a register of all areas of significant risk within their directorates.

C.47. Executive Directors or their nominated representative shall notify the Executive Director for Corporate Services or his/her nominated representative in writing immediately upon the occurrence of any event that to their knowledge might give rise to a claim by or against the Council.

C.48. The Executive Director for Corporate Services shall be responsible for negotiating all insured and self-insured claims in conjunction with claims handlers, legal advisers, loss assessors and loss adjustors as appropriate.

**Gifts and hospitality**

C.49. Employees must follow the code of practice for receipt of gifts and hospitality as contained in the Employee Code of Conduct. Any breach of the code may result in disciplinary action.

**4.17. Local management of schools**

C.50. These Financial Regulations also apply to schools and other institutions with delegated budgets under local management arrangements apart from the exceptions detailed in the Scheme of Delegation to Schools

## 5. Definitions

**budget holder** means an officer approved by the Executive Directors to take responsibility for budgets which have been allocated to them.

**order** means an instruction from the Council to a contractor or supplier to supply work, goods or services.

**authorised signatory** means an employee with delegated authority to sign orders and payments on behalf of a directorate.

**assets** means land, buildings, plant, equipment, vehicles, furniture, IT hardware and software, fixtures and fittings, materials.

**inventory** means a list of all assets held above a specified value or by type, containing a description of each asset, its location, its value, any service contract and date of acquisition.

**contract** means a legal agreement with another party to do work or have work done, or provide supplies and services.

**consultant** means any individual or organisation appointed to deliver a specified project with specified deliverables and a timetable. The project should either be developmental and/or problem solving and/or diagnostic and/or re-engineering in nature.

**budget virement** means the transfer of a budget from the purposes for which Council originally voted in setting the Budget and Council Tax to another purpose (e.g. from one service to another), or another use (e.g. from pay to non-pay or vice versa.

**Directors**DirectorsDirectorsDirectors

# PART V

# ETHICS

## TERMS OF REFERENCE FOR STANDARDS COMMITTEE

To deal with all matters relating to the ethical framework affecting members of the Council under Part I Chapter 7 Localism Act 2011 as amended and all other relevant legislation including regulations, directions and guidance. This shall include but not be limited to:-

1) The promotion of the highest standards of behaviour by members of the Council, including the Mayor, councillors, independent members and co-optees.

2) Advising the Council on the introduction and operation of the Member Code of Conduct, making recommendations for change as the Committee sees fit

3) Training all members in the operation of the Member Code of Conduct and ensuring that it is well publicised both within and outside the Council.

4) The introduction, implementation and maintenance of a procedure for dealing with allegations of breach of the Member Code of Conduct; including monitoring and review and amending it from time to time as the Committee sees fit.

5) Dealing with allegations of breach of the Member Code of Conduct, referred to them by the Monitoring Officer and the imposition of sanctions as appropriate in accordance with the law, the Council's Constitution and relevant procedures adopted by the Council.

6) Monitoring and review of the Council's whistleblowing procedures and cases referred to the whistleblowing officer under it, making recommendations to the Council as the Committee considers appropriate.

7) Consideration of applications for dispensation to allow members to participate in consideration of matters in which they would, but for a dispensation, not be able to participate, in circumstances permitted by law.

8) Annual monitoring and review of the Council's Code of Corporate Governance, including an assessment of the degree of compliance, submitting a report in this respect to full Council on an annual basis.

9) To adjudicate on any dispute relating to the payment of Members' Allowances or expenses under the Members' Allowances scheme in force from time to time.

10) To review the Council's use of the powers available to it under the Regulation of Investigatory Powers Act 2000.

11) All things necessary or in the opinion of the Committee appropriate to fulfil the role and remit of a Standards Committee as defined by law or the Council's constitution.

**Composition**

10 elected members of the Council and 6 co-opted members

# LONDON BOROUGH OF LEWISHAM

# MEMBER CODE OF CONDUCT

# LONDON BOROUGH OF LEWISHAM
# MEMBER CODE OF CONDUCT

## 1. Introduction

1.1 This Code sets out the principles and standards of behaviour for all members of the London Borough of Lewisham, both elected and co-opted members. It is designed to demonstrate the Council's commitment to the highest standards of ethical behaviour. Certain minimum requirements are set out in law and these are all included in this Code. However, the Council has put in place some elements of this Code by exercising its own local discretion to do so. Those elements which the Council has included under this discretionary power are contained within text boxes below.

1.2 For the avoidance of doubt, when the term "members" is used in this Code, or any appendices or protocols under it, it means the Mayor, elected and co-opted members, including non-elected members of the Health and Wellbeing Board.

## 2 Principles

2.1 Members are required to comply with the following principles in their capacity as a member:-

- SELFLESSNESS
- INTEGRITY
- OBJECTIVITY
- ACCOUNTABILITY
- OPENNESS
- HONESTY
- LEADERSHIP
- INDEPENDENT JUDGEMENT
- RESPECT
- STEWARDSHIP

2.2 Accordingly the following requirements apply:-

1) Members must act solely in the public interest. They must never improperly confer an advantage or disadvantage on any person nor seek to do so. They must not act to gain financial or other benefit for themselves, their family, friends or close associates.

2) Members must not place themselves under a financial or other obligation to any individual or organisation that might seek to influence the performance of their duties as a member.

LBL requires that members must not act to place themselves in a position where their integrity might reasonably be questioned and should on all occasions avoid situations which may create the impression of improper behaviour

3) Members should make decisions on merit, including when awarding contracts, making appointments, or recommending individuals for rewards or benefits.

4) Members are accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their office.

5) Members should be as open as possible about their decisions and actions and those of the Council. They should be prepared to give reasons for those decisions and have regard to the advice of the Council's statutory officers before making any decision.

6) Members must act to ensure Council resources are used prudently. When using or authorising the use by others of Council resources, members must ensure that they are used only for legitimate Council purposes and not for any other purpose. In particular they must not be used improperly for political purposes (including party political purposes). Members must have regard to any applicable Local Authority Code on Publicity under the Local Government Act 1986.

7) Members may take account of the views of others, including their political groups, and are obliged to consider the outcome of any consultation but they must reach their own conclusions and act in accordance with those conclusions.

8) Members should promote equality and not discriminate unlawfully against any person, and treat all people with respect. Whilst it is acknowledged that political debate may at times be robust and forthright, and that the right of freedom of expression is essential to vibrant political discourse, members should ensure that their comments and behaviour do not overstep the line of acceptability. They should not bully any person. They should respect the impartiality and integrity of the Council's officers.

9) Members should promote and support high standards of conduct in particular as characterised by the above requirements by leadership and example.

## 3 When does this Code apply?

3.1 This Code applies at all times when members act in their capacity as member or claim to do so.

## 4 Personal interests

4.1 There are three categories of personal interest.

- Disclosable pecuniary interest
- Other registerable interest
- Non registerable interest

*Disclosable pecuniary interest*

4.2 The definition of disclosable pecuniary interest is set out in regulation. It is as follows:-

***1 Employment, office, trade, profession or vacation***

*Any employment, office, trade, profession or vocation carried on by a relevant person* for profit or gain.*

***2 Sponsorship***

*Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 months prior to the date of giving notice of interest for inclusion in the register in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.*

*This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.*

***3 Contracts***

*Any contract which is made between a relevant person* (or a firm in which they are a partner, or a body corporate in which they are a director or in the securities** of which body corporate they have a beneficial interest) and the relevant authority—*

*(a) under which goods or services are to be provided or works are to be executed; and*

*(b) which has not been fully discharged.*

***4 Land***

*Any beneficial interest in land which is within the borough.*

***5 Licences***

*Any licence (alone or jointly with others) to occupy land in the borough for a month or longer.*

***6 Corporate tenancies***

*Any tenancy where (to the Member's knowledge)—*

*(a) the landlord is the Council; and*

*(b) the tenant is a body in which the relevant person* is a firm in which they are a partner, or a body corporate in which they are a director or in the securities** of which body corporate they have a beneficial interest.*

***7 Securities***

*Any beneficial interest in securities of a body where—*

*(a) that body (to the Member's knowledge) has a place of business or land in the borough; and*

*(b) either—*

*(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or*

*(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person* has a beneficial interest exceeds one hundredth of the total issued share capital of that class.*

** For the purposes of this paragraph 4.2, a "relevant person" is:-*

*(i) the Member, their spouse, or civil partner;*
*(ii) a person with whom the member is living as husband and wife; or*

*(iii) a person with whom the member is living as if they were civil partners.*

*** For the purposes of this paragraph 4.2, "securities" means shares, debentures, debenture stock, loan stock, units of a collective investment scheme within the meaning of the Financial Services and markets Act 2000 and other securities of any description other than money deposited with a building society*

4.3 Members must within 28 days of taking office as a member, notify the Monitoring Officer of any disclosable pecuniary interest where the pecuniary interest is the interest of themselves, their spouse or civil partner (or is the interest of someone with whom the member lives as spouse or civil partner) for inclusion in the Register of Members' Interests.

*Other registerable interest*

4.4 Members must also within 28 days of taking office as a member, notify the Monitoring Officer of such further interests as LB Lewisham has decided should be included in the register

*Membership or position of control or management in:-*

- *Any body to which you were appointed or nominated by the Council*
- *Any body exercising functions of a public nature (described below) or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party*

*Any person from whom you have received a gift or hospitality with an estimated value of at least £25*

*There is no definitive list of bodies exercising functions of a public nature, but those bodies which:-*

- *carry out a public service, or*
- *take the place of local/central government (including through outsourcing); or*
- *carry out a function under legislation or in pursuit of a statutory power; or*
- *can be judicially reviewed,*

*are likely to be bodies carrying out functions of a public nature. They include bodies such as government agencies, other councils, health bodies, council owned companies, ALMOs, school governing bodies.*

4.5 LBL requires all members to ensure that their entries on the Register of Members' Interests are kept up to date annually and that they notify the Monitoring Officer of any change to their interests within 28 days of the change arising

5. **Declaration of interests**

*Disclosable pecuniary interest*

5.1 By law, Members with a disclosable pecuniary interest may not participate in any discussion of, vote on, or discharge any function relating to any matter in which the member has such an interest, unless a dispensation has been granted under Section 33 Localism Act 2011.

## 5. Declaration of Interests

*Disclosable pecuniary interest*

5.1 By law, Members with a disclosable pecuniary interest may not participate in any discussion of, vote on, or discharge any function relating to any matter in which the member has such an interest, unless a dispensation has been granted under Section 33 Localism Act 2011.

5.2 In Lewisham decisions relating to dispensation may only be taken by the Standards Committee which will decide each case on its merits.

5.3 The law requires that if a member has a disclosable pecuniary interest which is not entered on the Register of Members' Interests, then the member must disclose the interest to any meeting of the Council at which they are present where they have a disclosable interest in any matter being considered at that meeting. However this shall not apply if the interest is a 'sensitive interest' (see para 5.4 below.) Following any such disclosure the law requires that members update their entry in the Register of Members' Interests within 28 days of the date of disclosure. In this context the law defines a meeting as a meeting of the Council, or any committee, sub-committee or joint committee of it.

5.4 A 'sensitive interest' is an interest the disclosure of which the member and Monitoring Officer have agreed could lead to the member or a person connected with them being subject to violence or intimidation

*Other registerable interests*

5.5 Members must also comply with such other provisions as the Council may require in relation to declarations of interest. The provisions which the Council has decided to include in this Code in relation to the declaration of interests are set out in paragraphs 5.6 to 5.11 below.

5.6 LBL requires that whenever a member has a registerable interest (pecuniary or otherwise) in any matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not improperly seek to influence the decision in any way.

5.7 Where the member has a registerable interest which falls short of a disclosable pecuniary interest, the member must still declare the nature of that interest to the meeting at the earliest opportunity and in any event before the matter is considered, but unless paragraph 5.8 below applies, provided the member does so, they may stay in the room and participate in consideration of the matter and vote on it.

5.8 Where a member has an interest which under this Code would not be a disclosable pecuniary interest but would be registerable (and therefore would not generally by law prevent participation in consideration of a matter in which the member has that interest,) the member must consider whether a reasonable member of the public in possession of all the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.

*Non-registerable interests*

5.9 Occasions may arise where a matter under consideration would, or would be likely to, affect the wellbeing of the member, their family, friend or close associate(s) more than it would affect those in the local area generally, but which is not required to be included in the Register of Members' Interests (for example, a decision in relation to a school closure, where a member has a child at the school). In such matters, members must comply with paragraph 5 in its entirety as if the interest were a registerable one.

5.10 Decisions in relation to the declaration of interests are for the member's personal judgement. However members must consider not only whether they have an actual interest in a matter under discussion but should at all times seek to avoid the impression being created that their judgement of the public interest is or is likely to be impaired by their personal interests.

5.11 The provisions of this paragraph 5 apply not only to meetings but to circumstances where a member makes a decision alone.

**6. ACCESS TO INFORMATION**

6.1 Members must not disclose confidential information given to them in the course of their duties without the consent of the person entitled to give it unless:-

(a) there is a legal requirement to disclose the information, or

(b) the disclosure is to a third person for the purpose of obtaining professional advice and the third party agrees not to disclose it, or

(c) the disclosure is reasonable, in the public interest, made in good faith and made in accordance with the Council's reasonable requirements.

6.2 Conversely, members must not prevent access to information to which another is entitled by law.

**7. GIFTS AND HOSPITALITY**

The Council maintains a Register of Gifts and Hospitality in which all members must register gifts and hospitality received from any party of £25 or over. Members must also register the identity of the party whom they believe to be the source of the hospitality or gift. Members must also record in this register any gift or hospitality offered to them but not accepted if it exceeds £25. This register will be publicly available on the Council's website.

**8 PROTOCOLS**

From time to time, the Council may put in place protocols which clarify this Code of Conduct and will be used to interpret it. Members must comply with any such protocols in place from time to time. There are attached to this Code 5 such protocols:-

(1) Member and Officer relations
(2) Member Use of IT
(3) Planning and Lobbying
(4 Local Authority Code on Publicity
(5) Guidance Code for Members on Outside Bodies

**9 UNDERTAKING TO COMPLY**

LBL requires that all members sign an undertaking within two months of being elected to abide by this Code of Conduct. Failure to do so will itself amount to a breach.

**10 SANCTIONS**

Members are reminded that breach of any of the statutory requirements relating to the registration and declaration of interests may result in prosecution. Breach of the provisions introduced locally by the Council will be dealt with in accordance with the Council's procedure for handling allegations of breach of this Code

*Members in need of advice about the application of this Code should contact the Director of Law and Monitoring Officer, Kath Nicholson on extension 47648*

# APPENDIX 1

# MEMBER & OFFICER RELATIONS

## Appendix 1

## Protocol on Member/Officer Relations

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

### Respective roles

2. Both members and Council staff are public servants. They are indispensable to each other. But their responsibilities are distinct. All members (including the directly elected Mayor) are responsible to the electorate and serve only so long as their term of office lasts. Staff are responsible to the Council as a corporate body, and not to any single member including a directly elected Mayor. Their job is to give advice to all members (including the Mayor) and to the authority, and to carry out the authority's work under the direction and control of the Council, its executive and relevant committees.

3. Respect between members and staff, both personally and for their different roles is essential to good local government.

### Members' roles

4. Members have five main areas of responsibility:

   (a) deciding on overall Council policy and giving the authority political leadership

   (b) making decisions within overall council policy (for example on planning applications, or on the establishment or closure of a school)

   (c) monitoring and reviewing performance in implementing policy and delivering services

   (d) representing the area and the Council externally

   (e) acting as advocates on behalf of constituents

Depending on whether they are members of the executive or not, and on the committees to which they are appointed, members may exercise only some of these roles. However it is not the role of members to involve themselves in the day to day management of the Council's services.

5 The Mayor, members of the executive and committee chairs and vice chairs have additional responsibilities. Because of this their relationships with employees may be different from and more complex than those of councillors without those responsibilities. This is recognised in the expectations they are entitled to have. However, such members must still respect the impartiality of officers and must not ask them to undertake work of a party political nature, or to do anything which will put them in difficulty in the event of a change in the composition of the authority.

6 As individual members, all councillors and the Mayor have the same rights and duties in their relationship with staff and should be treated equally. Members of overview and scrutiny committees are entitled to officer advice and support in the performance of their roles just as executive members are entitled to officer advice and support in the performance of theirs.

**Officers' roles**

7 The role of officers is to give advice and information to members to inform their decision making and to implement the policies and decisions of the Council. In giving their advice it is the responsibility of the officer to present his/her professional views and recommendations. Members must not pressurise an officer to make a recommendation contrary to their professional view or use undue pressure to seek to persuade an officer to withdraw a report.

8 In discharging their role as an officer of the authority, staff must act in a politically neutral way.

9 Certain officers, including the head of paid service, monitoring officer, chief finance officer, the director of children's services, the director of adult services, the director of public health & scrutiny officer have legal responsibilities over and above their obligations to the authority and members of it. Members must respect these obligations and must not obstruct them in the discharge of these responsibilities, or victimise them for discharging these legal duties.

**Expectations**

10 Members can expect from officers:-

(a) a commitment to the council as a whole and not only to any part of it, or to any political group

(b) Respect and courtesy

(c) The highest standards of integrity

(d) A working partnership

(e) An understanding of and support for respective roles, workloads and pressures

(f) Timely responses to enquiries and complaints

(g) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers

(h) Regular up to date information that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions they hold

(i) Awareness of and sensitivity to the political environment

(j) Training and development in order to carry out their role effectively

(k) Appropriate confidentiality

(l) That they will not use their relationship with members to seek to advance their personal interests or to influence decisions improperly

(m) Support for the role of councillors as the local representatives of the authority within arrangements made by the council to do so

(n) Compliance with the Employee Code of Conduct at all times

Officers can expect from members:-

(a) Respect and courtesy

(b) The highest standards of integrity

(c) A working partnership

(d) An understanding of and support for respective roles, workloads and pressures

(e) Political leadership

(f) Not to be subject to bullying or to be put under pressure. Members must have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between members and officers and the potential vulnerability of officers, particularly at junior levels

(g) That members will not use their position or relationship with officers to seek to advance their personal interests or those of others or to influence decisions improperly

(h) Compliance with the Member Code of Conduct at all times

**Close personal relationships**

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

**Political Groups**

12 The operation of political groups is an integral feature of local government. They have an important part to play in the development of policy and the political management of the authority. It is in the interest of the authority to support the effective operation of political groups. However, doing so can create particular pitfalls in terms of the impartiality of officers. This protocol sets out guidance to minimise the risk of that impartiality being compromised.

13 National Conditions of Service for Executive Directors and JNC officers provide that they shall not be required to advise any political group of the Council, either as to the work of the Group or as to the work of the Council, neither shall they be required to attend any meetings of any political groups. This should be without prejudice to any arrangements to the contrary which may be made in agreement with any officer which includes adequate safeguards to preserve the political neutrality of the officer in relation to the affairs of the Council.

14 The NJC for Local Government Services National Agreement on Pay and Conditions of Service provides that codes of practice for the official conduct and obligations of employees shall be locally determined. The Council applies a similar provision to those applying to JNC officers, without the exception contained in the last sentence**.**

15 Sometimes, officers may be asked to write reports for a political group. Normally it should only be an Executive Director who is asked to do so. Occasionally, subject to the direction of the Executive Director, other senior employees in his/her Directorate may be asked to write reports for a political group. Neither the Executive Director nor any other officer can be compelled to write reports for (or attend) a meeting of a party political group. Sometimes it will be appropriate for a senior officer to write a report for a political group where they represent an early stage in the decision making process. A report relating to the choices to be made in the budget process might be an example. However, where a senior officer does write such a report for a political group, it should be written as if it was being prepared for the full Council, Executive or the relevant committee. Reports on matters of policy or principle, prior to decisions do not need to be so formally drafted.

16 The principles set out in paragraph 15 do not obviate the need for there to be close and regular liaison on matters affecting the Council between the Mayor, members of the Executive and committee chairs as appropriate on the one hand and Executive Directors and senior officers on the other.

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

**Reports to Council, Executive or Committee**

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

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

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

# APPENDIX 2

# PROTOCOL ON MEMBER USE OF IT

## ACCEPTABLE USE OF ICT EQUIPMENT

1.1 Council computers and ICT equipment are provided to assist members in their role as locally elected representatives.

1.2 ICT facilities are very useful tools for research and business. However, they are also full of risk. There are a number of reasons why guidance in respect of computers and ICT equipment is required. For example, any security breach of the Council's ICT network (and the systems and networks held on it), could have an extremely adverse affect on the Council, members, staff or the public.

1.3 Furthermore, while using such facilities, members could copy information and contravene copyright law or (without realising) allow someone to use the internet to attack computer systems and the Council network. Other risks include:

- the transmission or introduction of computer viruses;
- making defamatory or inappropriate remarks or negligent statements;
- unwittingly making a contract;
- sexual or racial discrimination;
- criminal offences.

1.4 In addition, all members are bound by the provisions of Lewisham's Member Code of Conduct. Abuse of the Council's facilities, including IT equipment, amounts to a breach of the code. Members' attention is drawn to the contents of the Code of Conduct which appears at Part V of the Council's Constitution both in general and in particular to the requirement set out at paragraph 2.6, which states:

" 2.6. Members must act to ensure Council resources are used prudently. When using or authorising the use by others of Council resources, members must ensure that they are used only for legitimate Council purposes and not for any other purpose. In particular they must not be used improperly for political purposes (including party political purposes). Members must have regard to any applicable Local Authority Code on Publicity under the Local Government Act 1986."

The Code of Conduct may be amended from time to time and members will also be required to agree to comply with the amended code.

1.5 Members are reminded that the Council's Protocol for recording Council meetings which is produced at Appendix 3 to this Constitution, applies to everyone attending an open meeting. For the sake of certainty, any councillors wishing to record the proceedings of an open public Council

committee or Council sub-committee are bound by the provisions of that Protocol.

1.5 The following paragraphs (1.6, 1.7, 1.8 and 1.9) are intended to minimise such risks to members and the Council.

1.6 Members must not use Council ICT facilities for:

1.6.1 promoting private business activity, personal financial interests or commercial ventures;

1.6.2 promoting any political party, group, or campaigning organisation;

1.6.3 personal campaigning;

1.6.4 engaging in any activity which may result in actions for libel, defamation or other claims for damages;

1.6.5 any use which:

(i) contravenes any legislation (such as the Data Protection Act 2018, General Data Protection Regulations; the Computer Misuse Act 1990; the Copyrights, Designs and Patents Act 1988 (amended 2002); the Obscene Publications Act 1959 and 1964; the Anti-Terrorism, Crime and Security Act 2001; Equality Act 2010, or other legislation in force from time to time;

(ii) breaches any of the general obligations set out in the Member Code of Conduct; or,

(iii) breaches the council's ICT security policies.

1.7 ICT facilities are provided to members in order to assist them in Council related activities. However provided that the terms of the Code of Conduct, and other member Guidance, are not broken, members may also use Council PCs for lawful personal purposes, for example surfing the internet to purchase goods and services. In such cases all associated risks and liability, including any costs, remain with the Member.

1.8 Members may download or install software from licensed sources which assist in their role as locally elected representatives (and does not breach any of the conditions outlined above). In such cases all associated risks and liability, including any costs (other than the costs of restoring the Council's standard software desktop), remain with the Member.

1.9 Members should ensure that they have duly licensed any software installed on Council ICT equipment.

1.10 Members are also provided with facilities enabling them to conduct their duties from home. When working from home, or remotely, members must not:

1.10.1 allow any other person, including family members, access to the Lewisham ICT network;

1.10.2 allow any other person, including family members, to use their user name and password.

1.11 The Council's network has been set up to automatically prevent users from accessing certain types of website including pornographic, homophobic, racist, on-line gaming, terrorist and computer-hacking sites.

1.12 However, members may occasionally find that they do encounter sites that contain this sort of material. If so, you must report this to the Shared Service Help Desk immediately.

1.13 Any material containing child pornography found on any Council computer system must by law be reported to the police.

1.14 Members are responsible for the content of any email sent from their username and in certain circumstances the Council may also be found liable for the content of such email, in which case action will be taken to recover any resultant penalties.

1.15 A disclaimer is automatically added to emails sent out from the Council in case it is wrongly addressed or reaches the wrong person. However, members must take steps to make sure that emails are addressed correctly. If a member finds out an email has been received by someone other than the intended person, they must take steps to make sure that this does not happen again, and to secure its deletion by the unauthorised recipient if possible.

1.16 If a member receives an email that breaches the general obligations of the Member Code of Conduct or which breaks the law, they must inform the Monitoring Officer.

1.17 Emails and other personal information should be retained only for the minimum period necessary, and in accordance with the Data Protection Act 2018 and GDPR. Further details on the Data Protection Act and GDPR can be obtained from the Head of Information Governance.

1.18 It is important that members manage and store information to ensure its availability, confidentiality and integrity. Therefore members must regularly review all Council information (including files and Email messages and delete all redundant or irrelevant data.

1.19 Subject to reasonable notice, members must provide authorised representatives of the Council (for example computer technicians), with access to Council equipment. This access may be required for the resolution of faults, to replacement or upgrade equipment or the removal of equipment (if, for example the member ceases to be a member of the Council).

1.20 Members are also reminded of their duty to comply with investigations by regulatory services, e.g. police, audit, etc., if so required.

2. Social media policy

Members are required to comply with the Council's Member Social Media Policy in place from time to time.

# APPENDIX 3

# PROTOCOL ON PLANNING AND LOBBYING

**APPENDIX 3**

# PROTOCOL ON PLANNING AND LOBBYING

## Introduction

1. The planning system involves taking decisions about the use and development of land in the wider public interest having regard, in particular, to the Development Plan. When such decisions are made the requirements of individuals (be they applicant or neighbour) must be balanced against the broader public interest. It is of fundamental importance that the planning system should not only be fair, but should be seen to be fair.

## Elected Members

2. Elected members set the Council's planning policy and determine planning applications and enforcement issues within the context of that policy. When elected members come to make a decision on a planning matter, they must:

   - act fairly and openly
   - approach each application with an open mind
   - carefully weigh up all relevant issues
   - determine each application on its own merits
   - avoid contacts with interested parties which might be taken to indicate that they were unduly influenced by one party or another
   - ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

3. Elected members may delegate certain planning decisions to officers and where this is the case, officers will be bound to act in accordance with the principles set out in this paragraph.

## Role of Officers

4. The function of officers is to advise and assist members in matters of planning policy and in their determination of planning applications and enforcement issues by:-

- providing impartial and professional advice
- making sure that all the information necessary for the decision to be made is given
- providing a clear and accurate analysis of the issues
- setting applications and enforcement issues against the broader Development Plan policies , and all other material considerations
- giving a clear recommendation
- carrying out the decisions of councillors in committee or sub-committee.

**Lobbying**

5. There are two issues which may arise when a member has been lobbied. They are the issues of pre-determination and personal interest.

**Pre-determination**

6. Members are under an obligation to determine matters on their merits. That means that they must not make up their minds before receiving and reading any officer report, or before hearing any debate on the matter out of which new information may arise. The important issue is that the member's mind must not be closed to consideration at the point of deliberation on a matter. Whilst a pre-disposition to a particular view may be legitimate, a closed mind at the point of considering a planning application would not be. The member must be open to persuasion.

7. Whilst a predisposition to a particular point of view is acceptable, a predetermination is unacceptable. To avoid compromising their position before they have received all the relevant information, members must:

    - avoid, as far as possible, meeting an applicant or potential applicant alone;
    - avoid making categoric statements in advance about whether they support or oppose the proposal;
    - not pressurise officers to make a particular recommendation in their report;
    - direct lobbyists or objectors to planning officers, who will include reference to their opinions, where relevant, in their report;

- advise the Director of Planning and the Chair of the appropriate Planning Committee of the existence of any lobbying interest.

8. Where a member has been lobbied he/she should report to the relevant committee that he/she has been lobbied and by whom. However, members must act in the public interest and not at the behest of any individual or interest. If the member feels that he/she no longer retains an open mind on the matter but that his/her impartiality has been compromised, he/she will need to decide whether to withdraw from the meeting.

9. Where a member decides that he/she wants to act as a representative of their community, reporting and advocating the views of their constituents, it follows that they will no longer be acting impartially. In those circumstances, they should not seek to participate in any consideration of, or vote on the matter.

**Interests**

10. Whether or not a Member may participate and vote on a planning matter depends on the nature of the interest that they hold. The situation may be summarised as follows:-

(a) **Disclosable pecuniary interests**

(i) Where a Member of the Planning Committee has a disclosable pecuniary interest then that Member cannot participate in any discussion or vote in respect of that matter at Planning Committee or otherwise. They must declare the interest and withdraw.

(ii) Members who are not members of the Planning Committee are similarly bound by the provisions relating to disclosable pecuniary interests, and may not make any representations to the Committee on their own behalf or those of their constituents or others. They similarly must not attend during consideration of that item.

(b) **Other registerable and non registerable interests**

If a Member of the Planning Committee has an interest, other than a disclosable pecuniary interest, in a matter which is under consideration by Planning Committee, which would either:-

(i) constitute an interest that would need to be registered under the Council's Code of Conduct or
(ii) which whilst not requiring registration would, be likely to affect the wellbeing of a member, their family, friend or close

associate(s) more than it would affect those in the local area generally

then the Member should declare the interest but may stay and participate in the consideration of the matter and may vote unless the following paragraph (c) applies.

(c) If the interest is such that a reasonable member of the public in possession of all the facts would think that the member's interest is so significant that it would be likely to impair their judgement of the public interest the member, should not participate in the decision making process and should withdraw.

(d) Members who are not members of the Planning Committee with such an interest may still attend to make representations to the Committee on their own behalf or on behalf of their constituents or others, provided a declaration of interest is recorded and as long as the Member leaves immediately after doing so.

11. Members with an interest that would preclude their attendance at a meeting during consideration of a matter, can still present views to the meeting, through other means:

- written representations in a private capacity. Such representations should disclose the existence and nature of the interest. Members must not seek preferential treatment and representatives should be addressed to the officers not members

- the use of a professional representative to make representations;

- arranging for another member to represent the views of constituents on matters in which a member has a prejudicial interest.

The advice of the Monitoring Officer should be sought as to whether an interest ought to be declared in cases of doubt.

12. Where a member receives relevant information in respect of an application which is not contained in the Director of Planning's report on the application, the member should secure that that information is made available to other members of the Committee, by advising the Director of Planning directly so that the information can be confirmed, rather than run the risk that the Committee might take a decision on the basis of information which subsequently proves to be incorrect.

**Discussions with Potential Applicants**

13. Members should note that breach of the requirements in relation to personal interest and for pre-determination may mean that the decision is rendered invalid if challenged in the courts.

14. Pre-Application meetings with potential Applicants are encouraged to ensure beneficial development and to resolve matters which might otherwise lead to the refusal of planning permission. However, to avoid such meetings being mis-understood, they should normally be at officer level and:

- where meetings are to involve elected members, they will be arranged by and attended by officers and will include the Chair of the relevant Planning Committee or his/her representative

- potentially contentious meetings will be attended by at least two officers, including the Director of Planning or his/her representative

- a note of the discussion will be taken and placed on file and made available for public inspection at the appropriate time

- it will be made clear at such meetings that only personal and provisional views based upon the policies in the Development Plan documents and any other relevant documents forming the local development framework can be given and no commitments can be made which would bind or otherwise compromise the relevant Planning Committee or any member of it.

**The Party Whip**

15. Members cannot accept an instruction from anyone to determine an application in a particular way, as they must determine the issue on its merits. So, while they may give appropriate weight to the views of other members whether expressed in the committee meeting or in prior discussions, they must determine the application on its merits and should not take into account any facto which they are not prepared to state in open Committee. As a result it is not appropriate for any party group to instruct its members to vote in a particular manner on an application or to apply or threaten to apply any sanction to any member who voted contrary to the Group's collective view. Where such a whip has been applied, members should declare it in exactly the same manner as they would declare any other attempt at lobbying.

**Decisions Contrary to Officer Recommendation**

16. From time to time, members of the relevant Planning Committee will disagree with the professional advice given by the Director of Planning. Development

Control is not an absolute science and there can be genuine disagreement about the implications of a particular proposal. The Director of Law or his/her representative will be present at the Committee making the decision and will be able to advise if the facts simply cannot support the conclusion which the members have drawn and the Committee is in danger of acting unreasonably. This advice may be given in public or private.

17. In cases where the Planning Committee decides for good and valid reason to depart from the Director of Planning's recommendation, the Committee must define the reasons for rejecting the officer's recommendation and those reasons must be recorded in the minutes of the meeting. Where it is not possible for the Committee to define those reasons with sufficient precision at that initial meeting, the Committee should adjourn the determination of the application to permit the appropriate officers to present to a subsequent meeting a Statement of Draft Reasons for its approval. Where an appeal arises against such a decision, officers will give support to the relevant Committee members in preparing evidence for the appeal, but it will be for members of the Planning Committee making the decision, to appear at any appeal hearing and give evidence of the reasons for the Committee's decision.

**Site Visits**

18. Site visits can be useful to identify features of a proposal, which may be difficult to convey in a written report, but site visits do delay the decision on an application. When a member feels that a site visit is essential he/she can either make a request to the Director of Planning or request the relevant Planning Committee to defer the determination of the matter until a site visit has been held.

19. Site visits are:

- fact finding exercises
- not part of the formal consideration of the application and therefore public rights of attendance do not apply
- to enable officers to point out relevant features
- to enable questions to be asked on site for clarification.

However, discussion on the application will only take place at the subsequent Committee, as all relevant parties may not be in attendance on site.

**Gifts and Hospitality**

20. Gifts and hospitality give rise to particular problems in respect of the credibility of the planning process and acceptance of gifts or hospitality by members or officers can be a very serious criminal offence. Members should have particular regard to the provisions of the Council's Member Code of Conduct. In particular they must immediately report to the Monitoring Officer any offer of gifts or hospitality and they should avoid any behaviour which might be taken as indicating that they are open to such offers.

**Planning Application by Members or Officers**

21. The impartiality of the planning process requires particular care when dealing with an application by anyone who might ordinarily be involved in the planning process. So, whenever any member or any officer who might be involved in the planning process submits an application to the Council for himself/herself or on behalf of any other person, they will:

- inform both the Director of Planning and the Council's Monitoring Officer
- take no part in processing or determining the application.

The Director of Planning will ensure that all such applications are determined at the appropriate committee meeting and not under any delegated powers.

**Planning Applications by the Council**

22. The Council itself requires planning permission to carry out or authorise development on land it owns. These applications will be treated in the same way as those from private applicants.

**Applicant and Public Representations at Planning Committee**

23. The Planning Committee will approve procedures to ensure that where they receive representations from or on behalf of the applicant or from members of the public on a particular application, there is an opportunity for advocates both for and against the proposal to be heard in a balanced manner.

**Complaints**

24. Any issues or concerns arising from this protocol can be raised with the Chair of the appropriate Planning Committee or the Director of Planning. The Council also has a formal complaints system in operation, which can be used if necessary.

# APPENDIX 4

# LOCAL AUTHORITY CODE ON PUBLICITY

# LOCAL AUTHORITY CODE ON PUBLICITY

## Introduction

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.

2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newssheets and maintenance of websites – including the hosting of material which is created by third parties.

3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

## Principles

4. Publicity by local authorities should:-

   • be lawful

   • be cost effective

   • be objective

   • be even-handed

   • be appropriate

   • have regard to equality and diversity

   • be issued with care during periods of heightened sensitivity

## Lawfulness

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority's Advertising Codes.

6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.

7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.

8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority. *

9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.*

**Cost effectiveness**

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.

11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.

12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.

13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.

14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

**Objectivity**

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.

16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.

17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.

18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

**Even-handedness**

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.

20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the "face" of a particular campaign. If views expressed by or attributed

to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.

21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.

22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.

23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.

24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.

25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

**Appropriate use of publicity**

26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.

27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.

28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newssheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.

29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.

30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newssheets or similar publications published by the local authority, should do this on the front page of the publication.

**Equality and diversity etc**

31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.

32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

**Care during periods of heightened sensitivity**

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.

34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for

local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

* London Borough Lewisham N.B.
Since publication of this statutory guidance, the regulations referred to in this document have been updated as follows

- Para 8 The current regulations are the Local Authorities (Conduct of Referendums) (England) Regulations 2012.

- Para 9 The current regulations are the Local Authorities (Referendums) (Petitions) England Regulations 2011.

# APPENDIX 5

# GUIDANCE CODE FOR MEMBERS ON OUTSIDE BODIES

# A GUIDANCE CODE FOR MEMBERS ON OUTSIDE BODIES

1. Members are appointed formally by the Council annually to serve on a range of outside bodies, including voluntary organisations, local government associations, and companies formed to provide specific local services such as SELCHP.

2. In carrying out that role, members act both as individuals and as representatives of the Council. This has implications for the members appointed.

   a) Positively

      - It entails acting according to the rules, constitution and framework set by the outside body

      - It entails making independent and personal judgments in line with their duty of care to the outside body

      - It entails reporting back, at least annually, to the Council or relevant committee

      - It entails behaving ethically and following as far as applicable the Lewisham Member Code of Conduct

      - It entails taking an active and informed role in the management of the outside body's affairs.

   b) Negatively

      - It does not entail representing the political party to which members owe their political loyalty

      - It does not entail avoiding taking part in the outside body's discussions and decisions

      - It does not entail looking at things simply from the Council's perspective

      - It does not entail being there in name only and merely turning up to meetings.

3. The role of members on outside bodies may give rise to occasional uncertainty and perhaps to conflicts of interest. The attached Appendix offers a simple legal

guide on the responsibilities of members and officers. Members are asked to read the guide and if there are issues arising from their particular situation at any time, to contact the Director of Law for advice.

4. Members (and officers) are under a specific obligation as a result of the 1995 Local Authorities (Companies) Order to report back to the Council on their involvement in outside companies to which they have been nominated by the Council. That obligation is best met by an annual report to the Mayor and Cabinet and/or relevant committee with an opportunity for questions, and an item on agendas allowing questions by prior notice. While the law now makes this a requirement for involvement in outside companies, it is self-evident that facilities for report back should apply to involvement in all outside bodies.

5. Members will appreciate that the guide and also the Lewisham Member Code of Conduct addresses some of the issues around the possibility of conflicts of interest. In essence, if the outside body comes into conflict with the Council and the member is a director or on the management committee of the outside body, it is likely that the member's prime duty would be to the outside body in the conduct of the outside body's affairs. The member is however, also given certain specific dispensations in the Lewisham Member Code of Conduct to participate in the Council decision-making affecting the outside body to which he or she has been appointed.

6. If there is a major dispute between the Council and the outside body, then the member may be placed in an untenable situation. Before taking precipitate action, the member is advised to seek the advice of the Chief Executive or the Director of Law.

7. Ultimately, it is possible that the member may find he/she is unable adequately to carry out their responsibilities properly, both as a member of the Council and as a member or director of the outside body. But that would be an exception, and should not deflect members generally from being prepared to participate in the management and running of outside organisations.

1. <u>GENERAL</u>

1.1 There are some general provisions which apply to members and officers who act in the role of company director, trustee or member of an incorporated body, such as the committee of management of an unincorporated voluntary organisation.

1.2 Members are under a duty to exercise independent judgement in the interest of the organisation in which they are involved. Whilst it is recognised that members and officers may have a commitment to representing the Council on the outside organisation, they must be aware that it is their responsibility to decide what view to take on any question before that organisation. Where a member or officer is partaking in an outside organisation in a representative capacity, he/she must

declare that fact to the organisation. There will be a fine line to tread between his/her duty to the organisation and to the Council.

1.3 In the end, the member or officer in acting as a director/trustee or member of a management committee of an organisation, must act in accordance with the interests of that organisation. A mandate from the Council to vote one way or the other would put the member or officer in breach of the duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them. The overriding duty in considering an item before the outside organisation is to vote in accordance with the interests of that organisation.

1.4 Members and officers must also ensure that avoidable loss is not incurred in managing the organisation. They cannot avoid this responsibility by not reading the papers or failing to ask for appropriate reports. They will be expected to seek professional advice where appropriate.

## 2. COMPANIES

2.1 On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts and sue and be sued in its own name. The company is distinct from its shareholders and members. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company. This can be as little as £1.

2.2. Companies limited by shares are those which have a share capital (e.g. 1000 shares of £1 each). Each member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold. Companies limited by guarantee are those where there is no shareholding. Instead each member agrees that in the event of the company being wound up they will agree to pay a certain amount. This may also be as little as £1. This form of company is the most usual in the public and voluntary sector particularly where charitable status is sought.

2.3 The management of a company is generally the responsibility of a board of directors. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes even though a company has been incorporated, the directors may be referred to as members of the committee of management, governors or even trustees. However, this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again their status will not be affected. Directors are those who are appointed by the company to act in that capacity.

### 2.4 Directors' Duties

A director is an agent of the company. His/her prime duties are as follows:-

(1) A fiduciary duty to the company (not individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. Directors are therefore in the position of "quasi trustees" who must take proper care of the assets of the company. The fiduciary duty of the director towards the company is very similar to the fiduciary duty of Councillors to the Council Tax payers of the borough.

(2) A general duty of care and skill to the company, but a director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. A director is not deemed to be an expert, but is expected to use due diligence and to obtain expert advice if necessary.

(3) Like a councillor in respect of Council decisions, the director is under a duty to exercise independent judgement though it is permissible for him/her to take account of the interests of a third party which he/she represents. In such a case the director must disclose that position and treads a fine line between the interests of the company and the party represented (in this case the Council). The director cannot vote simply in accordance with a Council mandate. To do so would be a breach of duty.

(4) No conflict. There may be actual or potential conflicts between the interests of the Council and the interests of the company. In the most serious circumstances the only proper way for the conflict to be resolved may be for the Councillor to resign either from the company or from the Council.

(5) Directors are not allowed to make a private profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association.

(6) Directors must ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Failure to do so incurs fines and persistent default can lead to disqualification as a director.

2.5 Directors' Liabilities

(1) The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear. Non-

compliance is an offence and the directors and company officers can be fined.

(2) A company can only act within the scope set out in its Articles of Association (the document which sets out the objects of the company). Those directors knowingly causing the company to act beyond those activities will be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the members of the company.

(3) A director may also be liable for breach of trust, if he/she misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.

(4) In the event of failure to act in accordance with the best interests of the company, or if a director uses his/her powers improperly or makes a personal profit from his/her position as director, then the director may be personally liable for loss to the company and may be required to give to the company the personal profit made.

(5) If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However, if it believes the director acted honestly and reasonably, a Court may excuse the director the liability.

(6) If a director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, a Court may require that director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position he/she would be well advised to inform the other directors and seek advice from the company auditors. He/she should try to ensure that further debts are not incurred.

(7) A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from acting as a director.

(8) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is

therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company, (e.g. Director, for and on behalf of .....).

(9) A third party who enters into a contract on the assumption that a director has power to bind the company, may be able to claim damages against the director if it subsequently transpires that the director had no such power. Directors would we well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.

(10) Though company liability ceases on dissolution the liability of the directors (if any) may still be enforced after dissolution.

2.6 Indemnities

(1) Directors cannot be indemnified against liability arising out of negligence, default, or breach of duty or trust. However, the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.

(2) The Council has power to provide indemnity and/or insurance for the Mayor and councillors acting as directors on the nomination of the Council. Generally it is prudent for members who act as directors to ensure that the company takes out and maintains an appropriate policy of insurance. However, where appropriate, the Council will consider giving individual members such indemnity and insurance, having considered all the factors associated with the particular instance.

2.7 Local Authorities (Companies) Order 1995

(1) This Order, made under the Secretary of State's powers contained in Part V Local Government & Housing Act 1989, sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of rules apply.

(2) "Regulated companies" are those which are controlled or influenced by the local authority. "Influenced companies", under the effective control of the local authority, will be subject to capital finance regime and special propriety controls. In broad terms, the test as to whether companies are

local authority influenced is whether the local authority has the right to or in fact does exercise a dominant influence over the company in question.

(3) The original concept of controlled, influenced and minority interests in companies were introduced by the 1989 Act.

"Influenced" means at least 20% local authority interest plus one of a number of business relationships being satisfied. Perhaps the most significant are (broadly) where the company derives over 50% of its turnover from the Council, or the company is located on local authority land leased or sold for less than best consideration.

"Controlled" means over 50% local authority interests, and "minority" less than 20% interest.

The concepts in the 1989 Act still stand, but the Order introduces the term "regulated".

(4) Members who are directors of outside companies to which they have been nominated by the Council are under the following obligations:-

(a) that the remuneration they receive from the company should not exceed that received from a local authority, and should be declared;

(b) to give information to Councillors about their activities as required by the local authority (save for confidential information); and

(c) to cease to be a director immediately upon disqualification as a Councillor.

Under the Local Government & Public Involvement in Health Act 2007, the Secretary of State has power to regulate activity of local authority entities, and at a date yet to be agreed Part V of the 1989 Act will be repealed. Until such time, the provisions of the 1995 Order above apply.

## 3. LIMITED LIABILITY PARTNERSHIPS (LLPs)

3.1 LLPs are a form of vehicle that gives the benefits of limited liability but allows its members the flexibility of a traditional partnership. The LLP is a separate legal entity and, while the LLP itself will be liable for the full extent of its assets, the liability of the members will be limited.

3.2 It would be unusual for members to be appointed by the Council. If members are to be appointed to a limited liability partnership members should take advice on the implications from the Director of Law before doing so.

3.3 LLPs are not available to charities.

4. CHARITIES

4.1 To be a charity an organisation must operate for a charitable purpose. These are defined in the Charities Act 2011 and include:-

(a) the prevention or relief of poverty;
(b) the advancement of education;
(c) the advancement of religion;
(d) the advancement of health or the saving of lives;
(e) the advancement of citizenship or community development;
(f) the advancement of the arts, culture, heritage or science;
(g) the advancement of amateur sport;
(h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
(i) the advancement of environmental protection or improvement;
(j) the relief of those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage;
(k) the advancement of animal welfare;
(l) the promotion of the efficiency of the armed forces of the Crown or of the efficiency of the police, fire and rescue services or ambulance services;
(m) any other purpose recognised as or analogous to charitable purposes.

4.2 The Charity Commissioners may also grant charitable status to an organisation set up for an analagous purpose. It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

4.3 To register as a charity the organisation must submit its Trust Deed (usually the Articles of Association of a company limited by guarantee) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.

4.5 Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee even though they are not strictly trustees. Trustees of a charity retain personal liability, and can only delegate if the trust deed authorises them so to do.

4.6 Trustees' Duties

4.7 Charitable trustees owe duties of compliance, prudence and care. They are as follows:-

4.8 Compliance

- To ensure that the charity complies with legal requirements and those of the Charity Commissioners, and that the charity submits annual reports and accounts
- To ensure that the charity acts within the terms of its governing document
- To act with integrity, avoiding personal conflict of interest

4.9 Prudence

- To ensure that the charity is and will remain solvent.
- To use charitable funds and assets reasonably, and only in furtherance of the charity's objects.
- To avoid undertaking activities that might place the charity's endowment, funds, assets or reputation at undue risk.
- To take special care when investing the funds of the charity, or borrowing funds for the charity to us

4.10 Care

- To use reasonable care and skill in their work as trustees
- To take external professional advice on all matters where there may be material risk to the charity, or where the trustees may be in breach of their duties.

Trustees must not make a private profit from their position. They must also perform their duty with the standard of which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.

4.11 Trustees' Personal Liability

(1) If in doubt, always consult the Charity Commissioners. A trustee who does so will avoid personal liability for breach of trust if he/she acts in accordance with the advice given.

(2) Generally though, a trustee incurs personal liability if he/she:-

- acts outside the scope of the trust deed

- falls below the required standard of care

- makes a personal profit from the trust assets

(3) In such circumstances the trustee will incur personal liability for losses incurred.

(4) Trustees can be liable personally to third parties because unlike a company, a trust has no separate identity from the trustees. Trustees are however, entitled to an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable once they retire (e.g. if they have entered into a contract on behalf of the trust) and should therefore seek an indemnity from their successors. If the charity is a company however, the trustees for the time being will be responsible.

(5) Trustees may be liable to fines if they do not comply with the duty to make returns etc.

4.12 Indemnities

An indemnity can be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commissioners unless the trust deed allows it.

5. COMMITTEES OF MANAGEMENT

5.1 Unincorporated Associations

Groups which are not charitable trusts or limited companies are “unincorporated associations” and have no separate legal identity from their members. The rules governing the members’ duties and liability will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.

5.2 Property will have to be held by individuals as the organisation has no existence of its own.

5.3 Duties

Broadly, Management Committee members must act within the constitution, and must take reasonable care in exercising their powers.

5.4. Liabilities

(1) Generally, the Management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.

(2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent of all the members, who have joint liability for the agent's actions.

(3) Members of the Committee of Management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment of employees' tax etc.

5.5 Indemnities

Members will be entitled to an indemnity if they act in accordance with the organisation's constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.

# THE EMPLOYEE CODE OF CONDUCT

## 1.1 INTRODUCTION

This Code sets out the standard of conduct expected of all employees in carrying out their duties for the Council, their relationship with members and in circumstances where their duties overlap or conflict with their private lives.

The Code takes into account the requirements of legislation and national/regional terms and conditions of employment and supports the Council's wider promotion of organisational integrity.

This Code represents the standard against which employees will be judged by the public, Members, partners and the Council's Standards Committee. It is designed to promote public confidence in the actions of employees and Members and encourages both Members and employees not only to avoid actual impropriety, but at all times to avoid suspicion or appearance of improper conduct.

It is the responsibility of each employee to comply with the Code. Any breaches will be treated seriously and will be dealt with under the Council's Disciplinary Policy. If in any doubt employees should seek advice from their line manager or from HR.

## PRINCIPLES

The principles underlying this Code of Conduct, which must be observed by all employees are:

**Selflessness** – employees should serve only the public interest and should never improperly confer an advantage or disadvantage on any person

**Honesty and integrity** – employees should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. An employee must perform his/her duties with honesty, integrity, impartiality and objectivity.

**Objectivity** – employees should make any decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.

**Accountability** – employees should be accountable to the Council and the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny into their actions.

**Openness** – employees should be as open as possible about their actions and should be prepared to give reasons for them.

**Respect for others** – employees should promote equality and diversity by not discriminating unlawfully against any person and by treating people with respect, regardless of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

**Duty to uphold the law** – employees should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them.

**Stewardship** – employees should do whatever they are able to ensure that resources are used prudently and in accordance with the law. An employee must

(a) use any public funds entrusted to or handled by him/her in a responsible and lawful manner; and

(b) not make personal use of property or facilities of the Council unless properly authorised to do so.

**Leadership** – employees should promote and support these principles by leadership and example, and should always act in a way that secures and preserves public confidence

## 1.2 GENERAL OBLIGATIONS

Employees are expected to provide the highest possible standard of service to the public, and to the Council as a whole. An employee must at all times act in accordance with the trust that the public is entitled to place in him/ her and to comply with the law and this Code of Conduct.

Employees are required to comply with all the Council's policies and procedures as amended from time to time.

Employees must bring to the attention of management any deficiency in the provision of service and must report any impropriety or breach of procedure.

## RESPECT FOR OTHERS

All employees must promote equality and diversity by not discriminating unlawfully against any person and by treating them with respect, regardless of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

All forms of discrimination, including bullying and harassment are unacceptable and contravene the Council's Respect and Dignity at Work Policy. Any breach of this policy will be treated seriously and will be dealt with under the Council's Disciplinary Policy.

An employee must not do anything which will compromise or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

An employee must not treat another employee of the authority less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct.

**DISCLOSURE OF INFORMATION**

The law requires that certain types of information must be made available to members, auditors, government departments, service users and the public.

An employee must not disclose information given to him/her in confidence by anyone or information which he/she believes is of a confidential nature without the consent of a person authorised to give it, unless he/she is required to do so by law and must not prevent another person from gaining access to information to which that person is entitled by law. If in doubt, advice should be obtained from the HR Advisory Service.

Employees must never use any information gained in the course of their employment for their personal gain or to advantage or disadvantage anyone known to them, or to disadvantage or discredit the Council.

Only employees authorised by their Executive Director to do so may talk to the media or otherwise make public statements on behalf of their directorate. Generally an employee contacted by the press should refer the matter to the Council's Press Office who will deal with it as appropriate.

**BRINGING THE COUNCIL INTO DISREPUTE**

An employee must not in his/her official or private capacity conduct him/herself in such a manner which could reasonably be regarded as bringing the Council into disrepute.

**POLITICAL NEUTRALITY AND ACTIVITY**

Employees are required to serve the whole Council and its members, not just members of any controlling group and must ensure that the individual rights of all members, including co-opted members are respected.

Employees, who as part of their duties are required to provide advice to members or other employees, must do so impartially and must not allow their own personal or political opinions to interfere with their work.

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

- Standing as a candidate for election to the House of Commons, European Parliament or a local authority (other than a Parish Council).

- Holding office in a political party at any level, except in limited roles concerned only with the internal membership of the party.

- Canvassing at an election

- Speaking in public or publishing any written or artistic work which appears to be intended to affect public support for a political party.

If an employee is in any doubt about whether they hold a politically restricted post or whether any activity is political activity and covered by these rules then advice should be sought from their Executive Director or HR section.

## RELATIONSHIPS AND PERSONAL INTERESTS

### Members

An effective working relationship based on mutual respect between employees and members is essential to good local government in order to deliver efficient and high quality services to the community. However, close personal familiarity between employees and individual members can damage the relationship and prove embarrassing to other members and employees and should therefore be avoided.

Employees must not seek to involve members in personal matters which relate to any aspect of their employment with the Council e.g., pay and grading, grievances etc.

Employees must have due regard to the Protocol on Member & Officer Relations.

### Local Community and Service Users

Employees must ensure that courteous, efficient and impartial services are provided to all groups and individuals within the community.

Employees who provide personal/caring services to vulnerable people within the community, must always act in a professional manner and treat service users with dignity and respect at all times. Employees must never take advantage of the service user by forming inappropriate relationships or seeking/receiving personal favours, loans or gifts, including bequests. The Council's Policy on Receipt of Gifts and Hospitality must be adhered to at all times. Any abuse will lead to disciplinary action against the employee which could result in the employee's dismissal from the service.

In any case of doubt advice should be sought from the line manager or HR section.

### Contractors and other service providers

All relationships with contractors, potential contractors or other external service providers must be made known to management. Employees who engage or supervise contractors or have an official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity, must declare that relationship to management.

All contracts must be tendered/awarded in accordance with Council policy.

**Personal interests**

An employee must not in his/her official or personal capacity –

a) allow his/her personal interests to conflict with the authority's requirements; or

b) use his/her position improperly to confer an advantage or disadvantage on any person.

Employees must declare to their line manager any non-financial interests that they consider could bring about conflict with the Council's interests (for example acting as a school governor within schools maintained by the Council, involvement with an organisation receiving grant aid from the Council, membership of an NHS Trust Board, involvement with an organisation or pressure group which may seek to influence the authority's policies). Membership of a trade union is exempted from this requirement.

Employees must declare any financial interests which could conflict with the Council's interests.

Employees must declare to their Chief Officer membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about its rules or membership or conduct, for example freemasons.

Employees who have an interest, financial or non-financial, should not involve themselves in any decision on allocation of Council services or resources from which they, their friends or family might benefit, and should ensure that the matter is referred immediately to their line manager (for example allocation of Council housing or assessment of housing benefit).

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

**Register of Personal Interests**

Employees graded at SMG1 and above must register any financial interests in the authority's register. Other employees below SMG1 who hold positions which are considered by the Chief Executive or the Council's Monitoring Officer to be particularly at risk, such as commissioning, procurement and contract monitoring officers will also be required to register their financial interests. Employees must register their financial interest or subsequent changes by writing to the Council's Monitoring Officer within 28 days of their appointment or change in their personal position of :-

(a) any business carried on by him/her;

(b) the name of any firm in which he/she is a partner and the name of any company for which he/she is a remunerated director;

(c) the name of any corporate body which has a place of business or land in the authority's area where the employee has a beneficial interest in the class of securities of that body which exceeds the value of £25,000 or one hundredth of the total issued share capital of that body;

(d) a description of any contract for goods, services or works made between the authority and him/herself a firm in which he/she is a partner, a company of which he/she is a director or body of the description in paragraph (c) above;

(e) the address or other description (sufficient to identify the location) of any land in which he/she has a beneficial interest and which is in the area of the authority;

(f) the address or other description (sufficient to identify the location of any land where the landlord is the authority and the tenant is a firm in which he/she is a partner, a company of which he/she is a remunerated director, or a body of the description in sub-paragraph (d).

**OUTSIDE COMMITMENTS**

Employees' off-duty hours are their personal concern but they must not subordinate their duty to their private interests or put themselves in a position where duty and private interests conflict. The Council would not wish to preclude employees unreasonably from undertaking additional work unless that work breaches employment legislation, conflicts with or detrimentally affects the Council's interests or in any way weakens public confidence in the conduct of the Council's business, or in any other way affects their ability to undertake their Council work.

Employees must not engage in any other business or take up any other additional appointment for financial gain without the agreement in advance of their Chief Officer (relevant Director).

If agreement is given employees must be made aware that no outside work of any sort should be undertaken in the workplace, and use of facilities, for example telephones and photocopying for this, is forbidden.

## DISCLOSURE OF CRIMINAL CONVICTIONS

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

## APPOINTMENT OF STAFF AND OTHER EMPLOYMENT RELATED MATTERS

(1) An employee must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.

(2) In this paragraph –

a) "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and

b) "partner" in sub-paragraph (a) above means a member of a couple who live together.

Employees involved in appointments must ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a personal relationship outside work with them.

Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

## DECISION MAKING

There are vital legal principles which employees must adhere to at all times when making decisions on behalf of the Council. Decisions must be taken in accordance with the terms of the Council's constitution and its Standing Orders.

Employees must ensure that they use any public funds entrusted to them in a responsible and lawful manner, ensuring value for money to the local community and avoiding legal challenge to the Council.

Employees must have regard to the council's obligations under the Human Rights Act 1998.

## USE OF COUNCIL FACILITIES

Employees must use any equipment or facilities provided by the Council for use in the course of their employment in a proper and responsible manner.

Employees must not make personal use of Council's property or facilities unless properly authorised to do so.

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

## GIFTS, HOSPITALITY AND SPONSORSHIP – GIVING AND RECEIVING

### Corruption

It is a criminal offence for an employee to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour to any person in their official capacity. It is for the employee to demonstrate that any such rewards have not been corruptly obtained.

An employee should notify the Monitoring Officer, Executive Director or other nominated representative, as appropriate, of any offer of any gift or hospitality, whether or not accepted, which a member of the public with knowledge of the relevant facts might reasonably regard as intended to influence his/her discharge of his/her duties.

Employees are required to adhere to the Council's Fraud and Corruption Policy. Failure to do so will lead to disciplinary action under the Council's Disciplinary Policy.

### Receipt of Gifts and Hospitality

An employee must treat with caution any offer, gift, favour or hospitality offered to him/her. Gifts or hospitality shall include any opportunity to acquire goods or services at a price or on terms at which they are not readily available to the public.

Employees should accept offers of hospitality only if there is a genuine need to impart information or to represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. It must be properly authorised and recorded.

When hospitality has to be declined the person should be courteously but firmly informed of the procedures and standards operating within the Council.

Employees must not accept personal gifts from contractors and outside suppliers/providers, other than insignificant tokens such as pens or diaries. When considering whether or not to accept hospitality employees must be sensitive to the timing of decisions for letting contracts for which the provider may be bidding, and must never accept hospitality from a contractor during a tendering period.

Acceptance by employees of hospitality whilst in attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Council gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment are required, employees must ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

Employees must adhere to the Code of Practice for Receipt of Gifts and Hospitality which can be found on the Council's intranet (Working for Lewisham), and must ensure that any hospitality received is entered in the Hospitality Register maintained by their directorate Executive Support section.

## SPONSORSHIP - GIVING AND RECEIVING

Where an outside organisation wishes to sponsor or is sought to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

# A CODE OF CORPORATE GOVERNANCE

## A What is a Code of Corporate Governance?

A Code of Corporate Governance might be defined as a statement of the system by which a local authority directs and controls the exercise of its functions and relates to the local community. This definition is founded on that used in the Cadbury Report on the Financial Aspects of Corporate Governance which related to the governance of private companies. However it also recognises the key role of local government in community leadership, by placing emphasis on relationships with local people.

## B The Purpose of a Code of Corporate Governance

Aspects of corporate governance find expression in the everyday practices and procedures of a local authority. However an overarching Code of Corporate Governance fulfils the following purposes:-

- It stimulates confidence in the activities of local government, its politicians and employees, and the way it goes about business
- It focuses the minds of those involved in local government on making decisions in a proper way and engaging local stakeholders
- It assists with continuous improvement in the delivery of services, and serves to minimise the authority's exposure to risk.

## C Fundamental principles

Cadbury identified three fundamental principles for corporate governance. They are:-

- Openness
- Integrity
- Accountability

These are as relevant in the public sector as the private – possibly more so. These fundamental principles were expanded by the Nolan Committee on Standards in Public Life, and further strengthened as the guiding principles underpinning the statutory model code of conduct for members. These principles are readily accepted by the Council as underpinning all local government activity. They are embedded in the Council's Member Code of Conduct but are endorsed as applicable to all Council activity. They are:-

- **Selflessness** - members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person

- **Honest and integrity** - members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

- **Objectivity** - members should make decisions on merit, including when making appointments, awarding contract, or recommending individuals for rewards or benefits

- **Accountability** - members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office

- **Openness** - member should be as open as possible about their actions and should be prepared to give reasons for them

- **Personal Judgement** - members must take account of the views of others (and this may include their political groups) but should reach their own conclusions on the issues before them and act in accordance with those conclusions

- **Respect for Others -** members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, gender, sexual orientation or disability. They should respect the integrity and impartiality of the authority's statutory officers, and its other employees and not do anything to compromise that impartiality

- **Duty to uphold the law -** members should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them

- **Stewardship** - members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law

- **Leadership -** members should promote and support these principles by leadership, and by example, and should always act in a way that secures or preserves public confidence.

## D The decision making process

Decisions will be taken in accordance with the following:-

a) the decision will be made following an evaluation of options

b) the decision maker will take professional advice (including financial and legal advice where the decision may have legal and/or financial consequences)

c) the decision will be taken following a consideration of all relevant matters and disregarding irrelevancies

d) reasons for the decision will be recorded as will details of options considered with reasons for their rejection

e) action taken will be proportionate to the result to be achieved

f) respect for human rights will be balanced with the Council's duty to the wider community

g) a presumption in favour of openness, unless there are compelling lawful reasons preventing the consideration of matters in public

h) consultation appropriate to the matter under consideration

i) clarity of aims and desired outcomes

j) the highest standards of ethical conduct, avoiding actual, potential and perceived conflicts of interest

k) consideration of business by Council members will be on the basis of written reports containing all relevant service, corporate, legal and financial considerations

l) all executive decisions may be subject to scrutiny by the Overview and Scrutiny Committee in accordance with the Council's constitution

m) decisions will be taken in accordance with the Council or Mayoral Scheme of Delegation as appropriate, and these schemes will be maintained, kept up to date and made available to the public

## E Ethics

1. The Council will maintain and promote a Member Code of Conduct, which complies in all respects with all legal requirements.

2. The Council will maintain an Employee Code of Conduct, which complies with all legal requirements and promotes the highest standards of behaviour among employees.

3. Training will be provided for members and staff on the operation of the Codes of Conduct.

4. The Council will maintain a Members' Register of Interests in accordance with the law, and inform members of their duty to keep it up to date.

5. Key senior staff will be requested to disclose any interests which they have, which if they were a member they would be required to disclose, and a register kept of those interests declared.

6. The Council will maintain a protocol relating to the relationship between members and staff, promoting professional and effective relations between staff and all members, whether members of the Cabinet or overview and scrutiny.

7. The Council will adopt and maintain a whistleblowing policy and a Bribery Policy, which will be made widely available, and will report on referrals under those policies each year.

## F Members' roles

1. The Council will document the roles of all members of the authority including the relative roles of the Mayor and Cabinet and non-executive members of the authority. Officers will support all members in the performance of these roles.

2. Members will maintain appropriate schemes of delegation and in particular define those matters reserved for collective decision by the full Council.

3. Members will put in place clearly documented processes for policy development, implementation and review and for decision making, monitoring and control, as well as procedural and financial regulations relating to the conduct of Council business.

4. Members will recognise that although within the Council they may fulfill different roles (for example as scrutineer or member of the political Executive) the Council

remains a single corporate entity and can only function effectively if there is an appropriate balance between this corporate

approach and the need to ensure that executive decisions are made appropriately and scrutinised constructively.

5. As required by law, members will put in place the terms of their remuneration and arrangements for review by an Independent Remuneration Panel.

6. Each year the Council will publish details of remuneration paid to each member of the Council.

**G Officers' roles**

1. The Council will maintain the post of Head of Paid Service (Chief Executive - responsible for the management of the Council's workforce and overall corporate management of the authority) separate from the political executive of the authority.

2. The Council will maintain the post of Chief Finance Officer to advise on the proper administration of the Council's financial affairs, keeping proper financial records and maintaining effective systems of financial control.

3. The Council will maintain the post of Monitoring Officer who will be the person responsible to the authority for ensuring that procedure, legislation and good practice are complied with.

4. The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer shall be entitled to attend any meeting of the Council, the Mayor and Cabinet or any committee.

5. The council will also maintain the following statutory officer posts

   Director of Children's Services;
   Director of Adult Services;
   Director of Public Health;
   Scrutiny Officer; and
   Data Protection Officer

6. When considering any matter members must have regard to the advice of the Council's statutory officers.

7. All staff will have job descriptions which clearly define their roles, responsibilities and remuneration.

8. Council employees will support and advise all members of the Authority irrespective of whether they are executive or non-executive members.

**H Accountability and Community Focus**

1. The Council will record its decisions in writing and make those written records and the reasons for a decision available to the public.

2. All decisions made by the Mayor or delegated by him will be available for scrutiny by the overview and scrutiny committee in accordance with the Council's constitution.

3. The Mayor, members of the Cabinet and Executive Directors may be required to give account for their performance to the relevant overview and scrutiny committee.

4. The Council will publish annual performance targets in its Best Value Performance Plan and report on performance against those targets annually.

5. The Council will adopt a performance management framework to analyse key performance indicators and make information about performance against those indicators publicly available periodically.

6. The Council will put in place mechanisms to encourage participation in the affairs of the Council by individuals and groups from a broad cross section of the community, and will monitor their effectiveness.

7. In consultation with the local community will develop a vision for the local community and other stakeholders and will ensure that that vision is expressed clearly and publicised.

8. The Council will co-operate fully with external inspectors and respond positively to their findings, making arrangements to implement agreed actions effectively.

**I Financial matters**

- In addition to those financial matters raised elsewhere in this code, the Council will:-

- put in place a process by which resources are allocated to priorities

- adopt a financial reporting process to ensure that members receive financial monitoring reports at appropriate intervals

- maintain an objective and professional relationship with external auditors

- publish an annual statement of accounts in a timely manner

**J Risk Management**

1. The Council will put in place a robust system for identifying and evaluating significant risks to the authority

2. The Council will put in place effective risk management systems, including systems of internal control as well as effective arrangements for an objective review of risk management and internal control

3. Annually the Council will publish an objective balanced and understandable statement and assessment of the authority's risk management mechanisms and their effectiveness.

**K Review**

The Council will monitor compliance with this Code annually. An annual report will be presented to the Standards Committee on the extent of compliance, and the Council's annual statement of accounts will contain a statement explaining the extent of compliance. Officers will also present any proposals for amendment to the Code for consideration.

# PART VI

# MEMBERS' ALLOWANCE SCHEME

# *MEMBERS' ALLOWANCES*

## *Scheme for Basic and Special Responsibility Allowances 2019 as amended in November 2019*

INVESTOR IN PEOPLE

Produced by Governance

# LONDON BOROUGH OF LEWISHAM

## SCHEME FOR BASIC AND SPECIAL RESPONSIBILITY ALLOWANCES

1. General

Allowances may only be paid for duties specified in the Local Authorities (Members' Allowances)(England) Regulations 2003, which have been made in part under Section 18 of the Local Government and Housing Act 1989.

Provision is made for the following allowances:-

(a) allowances which are both to meet expenses and to provide remuneration

(i) **basic allowance**

(ii) **special responsibility allowance**

(b) allowances solely to meet expenses incurred

- **travelling and subsistence allowances**

- **telephone provision**

**MEMBERS ARE ADVISED THAT FROM MAY 2010 THE COUNCIL'S STANDARDS COMMITTEE HAS REQUIRED FULL DISCLOSURE OF ALL PAYMENTS MADE AND EXPENSES CLAIMED ON THE COUNCIL'S WEBSITE.**

# LONDON BOROUGH OF LEWISHAM

# MEMBERS' ALLOWANCES SCHEME

1. This scheme may be cited as the London Borough of Lewisham Members' Allowances Scheme, and shall have effect from 8 May 2018 and subsequent financial years.

2. In this scheme

   "councillor" means a member of the London Borough of Lewisham who is a councillor;

   "total estimated allowances" means the aggregate of the amounts estimated by the Executive Director for Resources, at the time when a payment of basic allowance or special responsibility allowance is made, to be payable under this scheme in relation to the relevant year, and for this purpose any election under paragraph 6 shall be disregarded;

   "year" means the 12 months ending with 31 March.

3. **Basic Allowance**

   Subject to paragraph 7, for each year a basic allowance shall be paid to each councillor. For the period commencing 1 April 2019 to 31 March 2020 this allowance is £10,209 per annum. For each subsequent year until May 2022 the Basic Allowance shall be increased by the headline figure in the National Joint Council local government pay settlement.

4. **Special Responsibility Allowances**

   (1) A special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 to this Scheme.

   (2) Subject to paragraph 7, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.

   (3) Only one special responsibility allowance is payable to a member.

5. **Financial Limits**

Any payment(s) under this scheme is subject to the amounts in respect of basic allowances and special responsibility allowances not exceeding that amount included in the revenue estimates for the relevant year.

6. **Renunciation**

A councillor may by notice in writing given to the Chief Executive elect to forego any part of his/her entitlement to an allowance under this Scheme.

7. **Part-year Entitlements**

(1) The provisions of this paragraph regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this Scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

(2) For councillors who join or leave the authority part way through a financial year, or who take-up or relinquish special responsibilities in the course of the year, their entitlements are to be the appropriate proportion of the full-year entitlement. Likewise, if the Scheme is amended in the course of the financial year, the entitlements for basic and special responsibility allowances are to be the appropriate proportions of the full-year entitlements for the periods before and after the amendment comes into effect.

8. **Subsistence Allowances**

These allowances may be paid only in respect of an 'approved duty' if it involves an absence from home exceeding four hours and expenses on subsistence is necessarily incurred in connection with that duty. **It follows that a member must have incurred expense before a claim can be made and a receipt should accompany the claim.** All claim forms may be published on the website.

8.1 **Day Subsistence**

Where members are required to travel on Council business outside the Greater London area, and meals are not provided, then subsistence allowances may be claimed as follows:

Lunch maximum £7

Evening Meal maximum £10

Reimbursement of the cost of an evening meal will be made only where the business meeting extends beyond 8.30 p.m.

Where members are required to stay overnight and meals are not provided with the accommodation, up to £30 may be claimed to cover the cost of all meals.

Where employees are required to visit abroad on Council business and meals are not provided with the accommodation, up to £50 may be claimed per day to cover the cost of all meals and taxi fares etc.

When claiming subsistence allowances receipts for expenditure must be presented.

8.2 **Overnight Subsistence**

The costs of Meetings or Conferences requiring members to be absent overnight from home will either be met directly by the authority or reimbursed upon submission of a valid claim and actual receipts. The costs to the authority of all Conferences or overnight stays will be published on the website and attributed to the Members concerned.

9. **Travel Allowance**

The Council has agreed that a flat rate mileage equivalent to the casual user rate paid to officers, will be paid when members use their private car for those 'approved duties' set out in Schedule 2 if the duty takes place outside the Borough of Lewisham.

It is expected that members will always use public transport if possible. The conditions and rates of travelling allowance for the use of private vehicles, hire cars and taxis are set out in detail in Appendix A. **Receipts should be provided to support claims. All claim forms received may be reproduced on the Council's website.**

Members are advised to ensure that their personal car insurance covers them for Council business use if they use their vehicle to travel to approved duties.

The Council cannot provide official transport for members unless they are on civic business authorised by the Head of Business and Committee or the Business and Civic Manager, or where it is considered reasonable and economic to do so for a group of members travelling together.

10. **Carer's Allowance**

A carer's allowance is payable to elected members and voting and non-voting co-opted members for the duties specified in the list of approved duties as follows:-

(i) care arranged by members on an 'ad-hoc' basis at the prevailing hourly rate of the London Living Wage £10.55 per hour, plus travelling expenses.

In special circumstances (eg for care of a severely disabled person) the Council should reimburse a higher cost where this can be justified.

Claims should be made on the appropriate forms which are available from the Head of Committee Business at the appropriate meeting, or the Members' Room.

11. **Telephone and I.T Charges**

The Executive Director for Corporate Services has the delegated authority to approve the supply of telephony and I.T. to members to use for Council business.

Where mobile telephones or similar devices are allotted to Members, any non Council usage must be identified and the Council reimbursed.

12. **National Insurance Contributions/Statutory Record and Statutory Sick Pay (SSP)**

The lower earnings limit in 2018/19 is £116 per week. National insurance contributions will be payable if the allowances due to a member in respect of any one month reaches this figure.

13. **Tax and Benefits**

A guide to the latest rules on Social Security Benefits and Tax Credits as they relate to Councillors, which has been produced by the Local Government Information Unit, is held by the Head of Business & Committee in the Civic Suite, extension 49327. It explains which allowances are taxable and how being a councillor can affect the benefits which you or your partner claim.

14. **Claims for Allowances**

**A claim for travel and subsistence allowances under this scheme shall be made in writing within six months of the date of the meeting**

**in respect of which the entitlement to the allowance arises.** Therefore any claims which relate to an attendance at a meeting which is not held within the preceding six months will not be paid. Any claim shall be made monthly in arrears and on the official forms. A simple form for claims for travel and subsistence is used and a supply is available in the Members' Room.

Responsibility for inserting details of any 'approved duty' during the period in question rests with individual members. Every claim shall include a statement that the member is not entitled to receive remuneration in respect of the matter to which the claim relates otherwise than under the Scheme.

Any claims received shall be subject to a check to ensure they fall within the list of Approved Duties. Any regarded as not admissible will be deleted and members will be informed.

Completed forms should be submitted to the Head of Committee Business, Governance Support, who will deal with any queries a member may wish to raise.

15. **Payments in respect of Basic and Special Responsibility Allowances**

Payments in respect of basic and special responsibility allowances shall be made in instalments of one-twelfth of the amount specified in this Scheme on the 18th day of each month.

Where Cabinet portfolios are shared between members both should receive half the remuneration of a Cabinet member.

Members should retain this document and the accompanying lists so that reference may be made to them when preparing claims.

16. **Register of Allowances**

Particulars of all allowances paid to, or on behalf of, a member have by law to be entered in a Register which is open to inspection by any elector for the Borough. This register is maintained by the Head of Business and Committee, Governance Support. Furthermore, the Council is required to publish details of the allowances scheme and to publish after the year end the total sum paid under the scheme to each member in respect of each of the allowances paid i.e. basic and special responsibility allowances.

Additionally all expenses claim forms submitted by Members as well as details of costs incurred directly by the authority on behalf of Members, will be published on the Council's website.

Lewisham Town Hall
Catford
SE6 4RU

October 2018 Chief Executive

**SCHEDULE 1**

## SPECIAL RESPONSIBILITY ALLOWANCES

1. The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances:

| | £ |
|---|---|
| Mayor | 77,722 |
| Deputy Mayor | 40,600 |
| All other Executive members | 15,298 |
| Speaker | 6,130 |
| Chair of Overview & Scrutiny Committee | 12,260 |
| Chairs of Overview & Scrutiny Select Committees | 6,130 |
| Chairs of Planning Committees (3) | 6,130 |
| Chair of Strategic Planning Committee | 9,195 |
| Chair of Licensing Committees | 6,130 |
| Leaders of Political Groups or Chair of the Labour Group if 15 or more members | 5,275 |
| Leaders of Political Groups with more than 3 but fewer than 15 members | 3,165 |
| Majority Party Whip | 5,275 |
| Chair of the Standards Committee | 1,000 |
| Co-optees on the Council's Standards Committee, Audit Panel and parent governors and diocesan representatives who sit on the Overview & Scrutiny Education Business Panel and the Children and Young People Select Committee | 600 |

**SCHEDULE 2**

## APPROVED DUTIES

The activities set out are ‘approved duty’ for the purposes of payment of travel and subsistence allowances when meetings take place outside the Borough of Lewisham

• a meeting of the authority;

• a meeting of a committee or sub-committee of the authority;

• a meeting of Cabinet;

• a meeting of a committee of Cabinet;

• a meeting of any other body to which the authority makes appointments or nominations;

• a meeting of a committee or sub-committee of any other body to which the authority makes appointments or nominations;

• a meeting which has both been authorised by the authority, a committee or sub-committee of the authority or a joint committee of the authority and one or more other authorities, or a subcommittee of a joint committee and to which representatives of more than one political group have been invited (if the authority is divided into several political groups) or to which two or more councillors have been invited (if the authority is not divided into political groups);

• a meeting of a local authority association of which the authority is a member;

• duties undertaken on behalf of the authority in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;

• duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;

• duties undertaken on behalf of the authority in connection with arrangements made by the authority for the attendance of pupils at a school approved for the purposes of section 342 of the Education Act 1996;

• a meeting of a Local Assembly.

**SCHEDULE 3**

## PARENTAL LEAVE

### 1. Leave Periods

1.1 A Member giving birth is entitled to up to six months' parental leave from one month before the due date, with the option to extend to 52 weeks, by agreement of full Council in exceptional circumstances

1.2 In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

1.3 In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 6 month entitlement.

1.4 A member shall be entitled to take a minimum of two weeks paternity leave if they are the biological father or nominated carer of their partner or spouse following the birth of their child(ren)

1.5 A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from the Council.

1.6 Where both parents are members of the Council, leave may be shared up to a maximum of 24 weeks for the first six months, up to a maximum of 50 weeks in exceptional circumstances and subject to the agreement of full Council. Special and exceptional arrangements may be made in cases of prematurity.

1.7 A member who adopts a child through an approved adoption agency shall be entitled to take up to 6 months adoption leave from the date of placement with the option to extend up to 52 weeks in exceptional circumstances subject to the agreement of full Council.

1.8 Any Member who takes parental leave is still subject to their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period (and if they are a member of Mayor and Cabinet to attend a meeting of Mayor and Cabinet in that period) unless the

Council agrees to an extended leave of absence prior to the expiration of that six month period.

1.9 Any Member intending to take parental leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.

1.10 Any member taking parental leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

**2. Basic Allowance**

2.1 All Members shall continue to receive their Basic Allowance in full whilst on parental leave.

**3. Special Responsibility Allowances**

3.1 Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in full while on parental leave.

3.2 Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.

3.3 The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of parental leave shall continue for a period of six months (or a year if agreed by full Council in exceptional circumstances), or if sooner, the earliest of the Member who is taking leave being removed from post or the date of the next local election.

3.4 Should a Member appointed to replace the member on parental leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowances shall apply.

3.5 Unless the Member taking parental leave is removed from their post at an AGM, or unless the Party to which they belong loses control of the Council during their leave period, they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began. This does not affect the legal right of the Mayor to remove a member from the Cabinet at any time or of the Council to remove a member from a post should there be grounds to do so.

## 4. Resigning from Office and Elections

4.1 If a Member decides not to return at the end of their parental leave, they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

4.2 If an election is held during the Member's parental leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and any SRA will cease from the Monday after the election date when they would technically leave office

## TRAVEL ALLOWANCE - CONDITIONS AND RATES

1. Mileage

1.1 The mileage to be paid for is from home (i.e. the normal place of residence) to the place where the approved duty takes places; and the return journey home.

1.2 If a member travels to the approved duty from another place (e.g. their place of work), this mileage can be paid for, provided it is less than it would be from home.

1.3 Exceptionally, if the member travels to the place of the duty from a place other than home and necessarily returns to the same place after the duty, the actual mileage for both journeys can be paid.

1.4 Again exceptionally, if the cost of the fare by public transport between the other place of the duty is greater than the cost to the member would have been in travelling to and from home, the cost can be paid.

2. Taxis

2.1 Members may claim for taxi fares only when returning from late night meetings where public transport is not available, and where appropriate by members with a relevant disability. In the case of dispute, the Standards Committee should be asked to arbitrate.

2.2 If a taxi is used the fare will have to be paid at the time and a claim submitted to the Head of Business & Committee giving details of the journey and the approved duty involved. Members are reminded that waiting time is charged for and should consider whether it will be cheaper to pay on arrival and re-hire for the return journey.

3. Self-Drive Hire Cars

The rate payable is the same as that payable for the use of a member's private car.

4. Rates

The rates per mile payable for travel by private car, motor cycle and bicycle are:-

4.1 Motor Cycles

31p per mile

(Note: the cc is shown in the Vehicle Licensing Document)

4.2 Motor Cars

| | |
|---|---|
| Up to 999cc | 46.9p per mile |
| 1000cc and above | 52.2p per mile |

4.3 Bicycles

14p per mile

4.4 Passengers

An additional 1.0p per mile may be paid for each passenger to whom travel allowance would otherwise be payable, up to 4 passengers.

4.5 Tolls, Ferries or Parking Fees

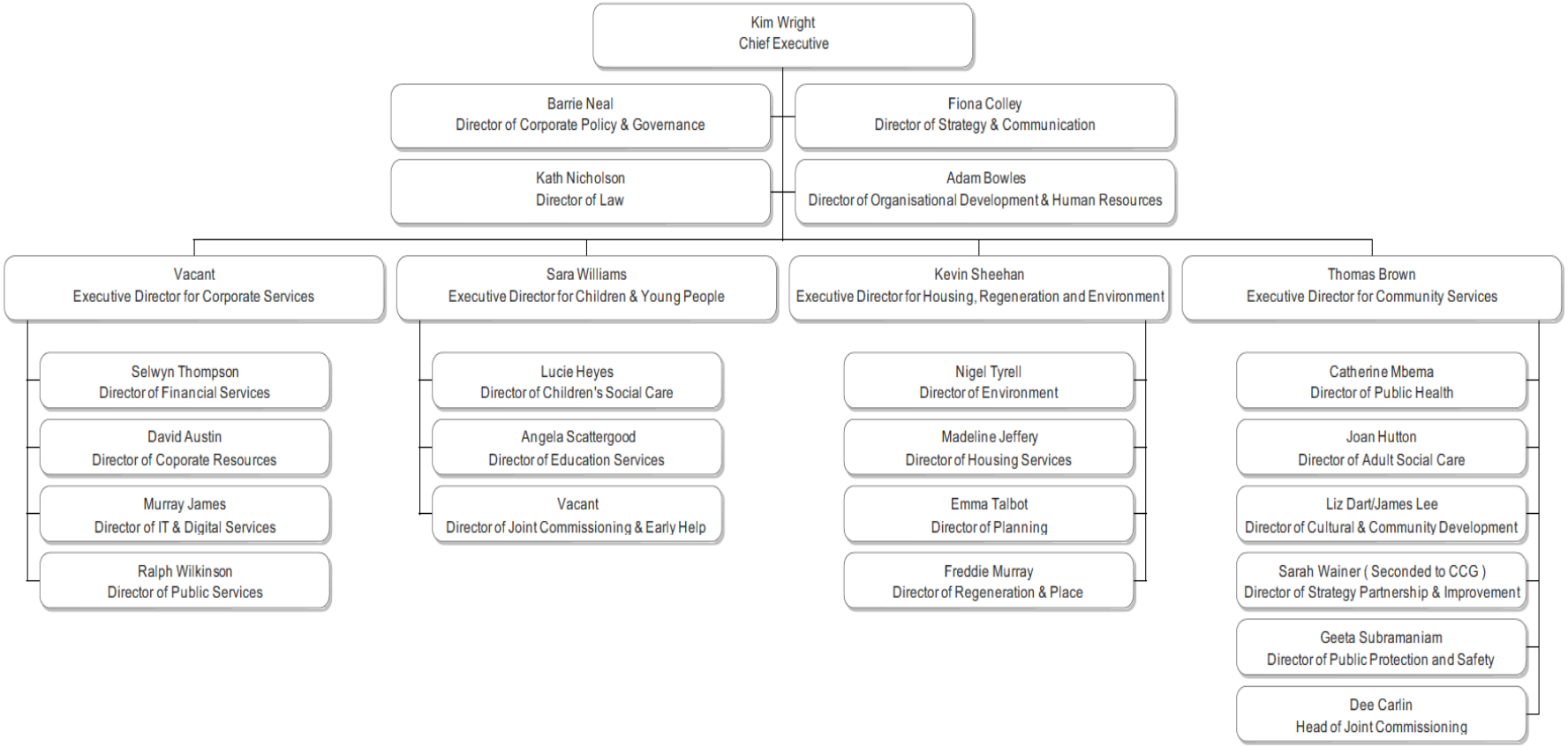
The actual cost may be paid.

# PART VII

# COUNCIL STRUCTURE CHART

**As at November 2019**

## Top Tier Management



# PART VIII

# SCHEMES
# OF DELEGATION

# COUNCIL
# SCHEME
# OF DELEGATION

## (A) COUNCIL SCHEME OF DELEGATION

### Schedule of Delegation to Officers in Relation to Non-executive Planning and Highways Matters

**Delegated Functions:**

To the Executive Director for Housing, Regeneration and Environment and such officers as he/she may nominate

Authority to deal with all town and country planning, development control, high hedges and highway and road traffic functions under all existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the planning committees A, B or C or the strategic planning committee. This includes by way of example but not limitation: -

- Determining applications, (or declining to determine applications where applicable), for planning permission, advertisement consent, listed buildings and conservation area consent, certificates of lawfulness or lawful development, works to trees, hazardous substances, environmental impact assessment screening and scoping opinions, decisions in respect of the prior approval procedure for telecommunication development.

- Issuing planning contravention notices, breach of condition notices, enforcement notices, stop notices, temporary stop notices, untidy land notices and other similar notices and questionnaires

- Making and confirming tree preservation orders and enforcing their provisions

- Taking action in relation to unauthorised advertisements, placards or posters

- Entering into agreements to regulate the development or use of land (including the approval of the detailed terms for inclusion in such agreements whether the agreement is to be entered into under delegated authority or following a resolution of members)

- Approving the details of conditions to be imposed on planning permissions (whether the permission is to be granted under delegated authority or following resolution to grant by members)

- Utilising the powers contained within planning, high hedges and highways legislation to gain entry to premises for the purpose of carrying out surveys and establishing whether there has been a breach of legislation including applying to the magistrates' court for a warrant of entry

- Carrying out any other regulatory enforcement functions contained in town and country planning, high hedges, road traffic or highways legislation in force from time to time

- Authorising the Director of Law to take any legal action which may be appropriate which relates to any function of the Executive Director, including the taking or defending of legal proceedings, public inquiries and planning appeals, and entering into legal agreements as may be required

- Creating, diverting and stopping up footpaths, highways and bridleways

- The making and enforcement of highways orders

- Dealing with applications for street works licences

- Exercise of non-executive powers under local legislation (including without limitation, names of streets under Sections 5 and 6 London Building Acts (Amendment) Act 1939)

- Exercise of powers under Part 8 of the Anti-social Behaviour Act 2003 in relation to high hedges

**Schedule (non-exhaustive) of relevant statutes (in so far as they relate to non-executive highways and planning matters**

- Ancient Monuments & Archaeological Areas Act 1979
- Anti-Social Behaviour Act 2003, Part 8
- Building Act 1984,
- Caravan Sites and Control of Development Act 1960
- Countryside and Rights of Way Act 2000
- Cycle Tracks Act 1984,
- Environment Act 1995
- Environmental Protection Act 1990,
- Greater London Authority Act 1999,
- Highways Act 1980,
- Local Government (Miscellaneous Provisions) Act 1976,
- Local Government Planning and Land Act 1980,
- Local Land Charges Act 1975,
- London Building Acts 1930 to 1978,
- New Roads and Street Works Act 1991
- Noise and Statutory Nuisance Act 1993,
- Planning & Compensation Act 1991,
- Planning and Compulsory Purchase Act 2004
- Planning (Consequential Provisions) Act 1990,
- Planning (Hazardous Substances) Act 1990
- Planning (Listed Buildings & Conservation Areas) Act 1990,
- Road Traffic Acts 1972, 1988 and 1991,
- Road Traffic Regulation Act 1984,
- Road Traffic Regulation (Special Events) Act 1994,
- Road Traffic (Temporary Restrictions) Act 1991,
- Town & Country Planning Act 1990,
- Transport Act 2000,
- Transport and Works Act 1992,
- Wildlife and Countryside Act 1981
- And all other relevant legislation in place from time to time

Nothing in this Schedule of Delegation prevents any Planning Committee or the Strategic Planning Committee exercising any function within their terms of reference.

The Committee may from time to time delegate to officers such functions as it considers appropriate.

## Matters reserved to Planning Committees A, B and C and Strategic Planning Committee

Town and country planning and development matters where:

1 there are three or more valid planning objections; or

2 there is one or more objection from a recognised residents' association or community/amenity group; or

3. There is one or more objections from a member of the Council.

4 the application is for development which is not in accordance with the approved development plan documents or other approved planning policies or

5 in the opinion of the Council's Director of Planning the matter would be more appropriately dealt with by the relevant committee.

6 Consideration of all town and country planning matters relating to the demolition of any building that is in use as a public house, or which is currently unoccupied but was in use as a public house immediately prior to becoming unoccupied.

All decisions relating to neighbourhood planning under Part 6 Localism Act 2011 in so far as they are non-executive functions and not reserved to full Council unless specifically delegated to officers by the Strategic Planning Committee.

# Schedule of Delegation to Officers in Relation to Non-executive Building Control Matters

**Delegated Functions:**

To the Executive Director for Housing, Regeneration and Environment and such officers as he/she may nominate:-

Authority to deal with all non-executive building control functions under existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the planning committees A, B or C or the strategic planning committee. This includes by way of example but not limitation: -

- Determining applications, (or declining to determine applications where applicable), for building control approval.
- Issuing enforcement notices, and other similar notices and questionnaires
- Issuing notices and orders in relation to building control
- Using the powers contained within legislation to gain entry to premises for the purpose of carrying out surveys and establishing whether there has been a breach of legislation including applying to the magistrates' court for a warrant of entry
- Carrying out any other regulatory enforcement functions and building control contained in legislation in force from time to time
- Authorising the Director of Law to take any legal action which may be appropriate which relates to any function of the Executive Director including the taking or defending of legal proceedings and entering into legal agreements as may be required
- Removal of nuisance deposits on the highway
- Dealing with applications for street works licences

Schedule (non-exhaustive) of relevant statutes (in so far as they relate to non-executive building control matters:

- Building Act 1984,
- Countryside and Rights of Way Act 2000
- Environment Act 1995,
- Greater London Authority Act 1999,
- Noise and Statutory Nuisance Act 1993,
- Local Government Planning and Land Act 1980,
- Local Government (Miscellaneous Provisions) Act 1976
- London Building Acts 1930 to 1978,
- Wildlife and Countryside Act 1981
- And all other relevant legislation in place from time to time

Nothing in this Schedule of Delegation prevents any Planning Committee or the Strategic Planning Committee exercising any function within their terms of reference.

The Committee may from time to time delegate to officers such functions as it considers appropriate.

## Matters reserved to Planning Committees A, B and C and Strategic Planning Committee

Building control matters where:

1. there is one or more objection from a recognised residents' association or community/amenity group; or

2. in the opinion of the Executive Director for Housing, Regeneration and Environment the matter would be more appropriately dealt with by the relevant committee.

# Schedule of Delegation to Officers by Licensing Committee

**Delegated Function**

To the Executive Director for Community Services or such officer as he/she may nominate authority to exercise all of the Council's licensing functions under the Licensing Act 2003, as amended from time to time, save for those matters reserved to the Licensing Committee or sub-committees

The functions to be reserved to the Licensing Committee, sub-committees and those to be delegated to officers are as follows:

| Matter to be dealt with | Licensing Committee | Licensing Sub-Committee | Officers |
|---|---|---|---|
| Application for Personal Licence | Any matter which the Director of Public Protection and Safety considers to be more appropriate for consideration by the main Committee | If a police objection | If no objection made |
| Application for Personal Licence with unspent convictions | As above | All cases | |
| Application for Premises Licence / Club Premises Certificate | As above | If a relevant representation made | If no relevant representation made |
| Application for Provisional Statement | As above | If a relevant representation made | If no relevant representation made |
| Application to vary Premises Licence / Club Premises Certificate | As above | If a relevant representation made | If no relevant representation made |
| Application to vary Designated Premises Supervisor | As above | If a police objection | All other cases |

| | | | |
|---|---|---|---|
| Request to be removed as Designated Premises Supervisor | As above | | All cases |
| Application for transfer of Premises Licence | As above | If a police objection | All other cases |
| Application for Interim Authorities | As above | If a police objection | All other cases |
| Application to review Premises Licence / Club Premises Certificate | As above | All cases | |
| Decision on whether a complaint is irrelevant frivolous vexatious etc | As above | | All cases |
| Decision to object when local authority is a consultee and not the relevant authority considering the application | As above | All cases | |
| Determination of a police objection to a Temporary Event Notice | As above | All cases | |

Nothing in this Scheme of Delegation shall prevent the Licensing Committee from exercising functions within its terms of reference.

The Committee may also from time to time delegate such functions to officers as it considers appropriate

**Schedule of Delegation**
**From Licensing (Supplementary) Committee**

**Delegated Function**

1 To the Executive Director for Community Services and such officer as he/she may nominate:-

Authority to exercise all of the Council's licensing and registration functions under all existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the Licensing Committee and/or sub committee.save for any licensing functions under the Licensing Act 2003 This includes by way of example but not limitation: -

**Schedule (non-exhaustive) of relevant statutes**

- Animal Boarding Establishments 1963
- Betting, Gaming and Lotteries Act 1963
- Breeding of Dogs Act 1973 and 1991
- Breeding and Sale of Dogs (Welfare) Act 1999
- Caravan Site and Control of Development Act 1960
- Children and Young Persons Act 1933
- Consumer Protection Act 1987
- Customs and Inland Revenue Act 1883
- Dangerous Wild Animals Act 1976
- Fire Precautions Act 1971
- Fire Safety and Safety of Places of Sport Act 1987
- Explosives Act 1875
- Food Safety Act 1990
- Game Act 1831
- Game Licences Act 1860
- Gaming Act 1968
- Greater London (General Powers) Act 1976
- Highways Act 1980
- Hypnotism Act 1952

- London Government Act 1963
- Local Government Acts 1985 and 1972
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- London Local Authorities Acts 1990, 1991, 1994, 1995 and 2000
- Lotteries and Amusements Act 1976
- Marriage Act 1949
- Nurses Agencies Act 1957
- Pet Animals Act1951
- Poisons Act 1972
- Public Health Acts Amendment Act 1907
- Rag, Flock and Other Filling Materials Act 1951
- Riding Establishments Act 1964
- Safety of Sports Grounds Act 1975
- Scrap Metal Dealers Act 1964
- Slaughterhouses Act 1974
- Theatres Act 1968
- Town Police Clauses Act 1847
- Weights and Measures Act1985
- Zoo Licensing Act 1981
- and all relevant legislation in place from time to time

Nothing in this schedule prevents the Licensing (Supplementary) Committee exercising functions within their terms of reference.

The Committee may also from time to time delegate such functions to officers as it considers appropriate.

**Record of Delegations**

The Executive Director for Community Services shall maintain an up to date list of all delegations made to other officers from time to time and a copy shall be provided to the Proper Officer.

**Matters reserved to Licensing (Supplementary) Committee**

1 Determination of any appeals against a decision made by the authorised officers under powers delegated to them to refuse or revoke licences, permits or registration.

2 Determination of any opposed applications for licences, permits or registration.

3 The review and determination of the charges to be imposed in respect of the licensing function.

4 Where the chair or vice chair of the committee indicates that the nature or circumstances of the matter are such that the matter should be determined by the committee

**Delegated Function**

Nothing in this schedule prevents the Licensing (Supplementary) Committee exercising functions within their terms of reference.

The Committee may also from time to time delegate such functions to officers as it considers appropriate.

# Schedule of delegation to officers in relation to the functions of the Elections Committee

**Delegated Functions**

To the Chief Executive, and such officers as he/she may nominate, authority to deal with all arrangements in connection with Electoral Registration and the conduct of Elections and all responsibility under existing and future legislation, and as amended from time to time, save for:-

- any relevant local choice functions reserved to the Executive; and
- those matters which are reserved to full Council by law; and
- those functions exercisable only by the Returning Officer and/or the Electoral Registration Officer.

Nothing in this schedule of delegation shall prevent the Council or the Elections Committee from exercising functions within their terms of reference.

# Schedule of delegation to officers in relation to the functions of the Pensions Investment Committee

To the Executive Director for Corporate Services such functions as the Pensions Investment Committee lawfully delegates from time to time.

# Schedule of delegation in relation to the functions of the Health & Safety Committee

To the Chief Executive and such officers as he/she may nominate such functions as the Health and Safety Committee lawfully delegates from time to time.

## General

All non-executive functions not reserved to members shall be delegated to the Chief Executive and such officer as he shall nominate in writing, unless there is a statutory requirement that the function be carried out by another officer, for example the personal statutory responsibilities of the Director of Childrens Services and the Director of Adult Services in which case the function is delegated to such other statutory officer.

## Directorate Schemes of Delegation

The extent to which non-executive decision making powers are delegated to officers below Executive Director level appear at page 370 (DIRECTORATE SCHEMES)

These directorate schemes may be amended from time to time.

# THE MAYORAL SCHEME OF DELEGATION

## (B) MAYORAL SCHEME OF DELEGATION

A CONTENTS

This scheme of delegation sets out:-

1) the names of those councillors whom the Mayor has decided shall be members of the Executive with him

2) the names of committees of the executive which the Mayor has decided should be appointed, together with their terms of reference and the extent and limit of delegation to them

3) those executive decisions which the Mayor has not delegated to anybody else to take and those which he/she has delegated to the Executive to take collectively

4) those executive decisions which the Mayor has delegated to officers to take

5) details of the appointment of members to joint committees exercising executive functions, together with the extent and limitation of executive delegation

B PURPOSES

The purposes of this Mayoral scheme of delegation are to

1) be clear about who can make which executive decisions

2) facilitate the smooth running of Council business to produce better decisions

3) to ensure so far as possible that the Mayor, in leading the Executive, is concerned with the overall direction of the Council, and with the establishment and maintenance of effective partnership working with other agencies and bodies in the borough. This should ensure that officers assume responsibility for operational matters and policy implementation.

C THE CONSTITUTION

Once reported to Council, this Mayoral scheme of delegation will form part of the Council's Constitution and will be appended to it. Its provisions apply in addition to the contents of the Council's Constitution, including its Rules of Procedure and Access to Information provisions.

D AMENDMENTS TO THE MAYORAL SCHEME OF DELEGATION

This Scheme of Delegation remains in force for the term of office of the Mayor unless and until it is amended or revoked by the Mayor in accordance with Part IV D 6 of the Constitution.

E NON-EXECUTIVE DECISIONS

Nothing in the Scheme of Delegation applies to any decision which is not an Executive decision, whether by law or under the Constitution (local choice matters).

F THE COMPOSITION OF THE EXECUTIVE

The Executive shall consist of 10 people, namely the Mayor and 9 other Councillors as set out below:

| Name | Address | Ward | Spokesperson for… |
|---|---|---|---|
| | | | |
| Mayor Damien Egan | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | N/A | Mayor |
| | | | |
| Councillor Chris Best | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | Sydenham | Health and Adult Social Care |
| | | | |
| Councillor Kevin Bonavia | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | Blackheath | Democracy, Refugees and Accountability |
| | | | |
| Councillor Chris Barnham | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | Crofton Park | Children's Services and School Performance |
| | | | |
| Councillor Paul Bell | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | Telegraph Hill | Housing and Planning |
| | | | |
| Councillor Brenda Dacres | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | New Cross | Deputy Mayor and Safer Communities |
| | | | |
| Councillor Amanda de Ryk | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | Blackheath | Finance and Resources |

| | | | |
|---|---|---|---|
| Councillor Pat Codd | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | Lewisham Central | Environment and Transport |
| | | | |
| Councillor Kim Powell | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | Whitefoot | Business and Community Wealth Building |
| | | | |
| Councillor André Bourne | c/o L.B. Lewisham, Laurence House, Catford, SE6 4RU | Downham | Culture |
| | | | |

None of the councillors appointed by the Mayor to the Executive has any decision making power delegated to them individually. Details of those decisions which are delegated to the Executive to exercise collectively as a whole are set out below.

## G DELEGATIONS TO THE EXECUTIVE ACTING COLLECTIVELY

The Mayor has delegated to the Executive acting collectively all decisions in relation to executive functions which he is entitled to make. When they act collectively the Executive shall be referred to as Mayor and Cabinet.

In addition the Mayor, in accordance with Part IV D 6 of the Constitution, may appoint such other committees of the Executive as he considers appropriate from time to time, but he does not create any such committees at this time.

## H GENERAL

1) This Scheme of Delegation is structured to ensure that the Mayor leads the Executive on proposals for policy, the budget and partnership working. It then goes on to state that authority to exercise executive functions and make executive decisions is delegated to officers save where there is a specific exemption to the contrary. Where such a specific exemption is made, the general rule is that those decisions will be made by the Executive collectively.

2) Notwithstanding delegations made under this Mayoral Scheme of Delegation, the Mayor may himself make any decision where he has delegated authority to others. Where he does so he will do so on the

basis of a written report, and in accordance with the Council's Executive Procedure Rules appearing at Part IV D

3) Where an executive decision is exempted from delegation to an officer, the Mayor delegates those decisions to the Executive acting collectively. The decision will be taken at a quorate meeting of the Executive of which proper notice has been served and conducted in accordance with the Council's Executive Procedure Rules at Part IV D.

4) Where the Mayor is of the opinion that a matter for consideration at a meeting of the Executive under this paragraph H is of such a nature that the Executive should not exercise any delegated authority in relation to it in his absence, he will inform the proper officer in advance of the meeting. The proper officer will ensure that such notification is brought to the attention of the meeting of the Executive, and once the notification has been brought to the attention of the meeting, the Executive will not have power to exercise authority in relation to that matter at that meeting.

5) Where power is delegated to officers under this Scheme of Delegation, the power will be exercised in a manner that decisions are not made in isolation and that the decision maker takes into account the broader corporate implications for the Council. If officers take key decisions, the law requires them to comply with the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012. In addition for key executive decisions which are to be taken by officers individually the Chief Executive shall put in place a procedure to ensure that officer decision making is exercised in a manner which reflects corporate considerations. Officers may only exercise delegated authority in relation to key executive decisions by complying with the procedure approved by the Chief Executive.

6) Where authority to make an executive decision is delegated to an officer, that authority may also be exercised by the nominee of that officer, provided that notification of the nomination has previously been given in writing to the Monitoring Officer or their nominee.

7) Unless the power to make an executive decision has been specifically reserved to members, the Executive Director with responsibility for the service area in which the subject matter of the decision falls, and/or their nominee, shall normally exercise the delegated power. However unless the officer acts in pursuance of a personal statutory duty, the delegated authority may also be exercised by the Chief Executive at his discretion. Where a decision straddles the remit of more than one Directorate, the decision shall be exercised by the Chief Executive or their nominee.

8) If responsibility for a function passes from one Directorate to another (for example as a result of reorganisation), the Mayor passes authority to make decisions in relation to the transferred functions to the Executive Director to whom the function is transferred to the same extent that the Executive Director from whom the functions were transferred had authority to act prior to the transfer unless and until this Scheme is formally updated to reflect the transfer.

I MATTERS NOT DELEGATED TO OFFICERS

The decisions set out in Table 1 below are not delegated to officers unless a specific written delegation from the Mayor to that effect in relation to the particular matter has been given to the proper officer in writing. The specific delegations to officers set out in this Scheme of Delegation are all subject to these general exemptions. If specific delegations and the contents of Table 1 contradict each other then Table 1 shall prevail.

**TABLE 1**
**EXECUTIVE MATTERS RESERVED TO MEMBERS**
**GENERAL**

| |
|---|
| 1. Approval of proposals to be made by the Mayor in relation to the following plans:-<br>• Children and Young People's Plan<br>• Crime and Disorder Reduction Strategy<br>• Youth Justice Plan<br>• Development Plan Documents<br>• Local Transport Plan<br>• Housing Strategy<br>• Licensing Statement (Alcohol and entertainment and Gambling) |
| |
| 2. Approval of all other policy plans and strategy. |
| |
| 3. Approval of the Mayor's proposals to the Council for the budget (capital and revenue) |
| |
| 4. Decisions relating to the joint provision of a service by the Council and external agencies, where the value of that service is at least £500,000 per annum |
| |
| 5. Decisions relating to the introduction of new services or the cessation of a service where the value of the service concerned is or would be if introduced at least £500,000 per annum |
| |

| |
|---|
| 6. Decisions relating to the options for future service delivery, including whether the service should be externalized, taken in house or commissioned jointly with another agency, where the value of the service is at least £500,000 per annum |
| |
| 7. Consideration of and action to be taken as a result of any external report on Council performance and the consideration of all other external reports and/or enquiries into council performance and/or administration |
| |
| 8. Any matter in which the officer who would otherwise have delegated authority to act is aware that a member (or a person, company or organisation with which the member is involved,) has a personal interest under the Council's Member Code of Conduct. |
| |
| 9. Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest. |
| |
| 10. Approval of any application for external funding which would either:-<br>(i) require match funding from the Council in excess of £250,000, or<br>(ii) have revenue implications in excess of that amount per annum, or<br>(iii) exceed £1 million |
| |
| 11. Any matter which in the opinion of the relevant Executive Director, the Chief Executive or the Director of Law because of the scale of the decision, its potential impact, the sensitivity of the decision or for any other reason would more appropriately be dealt with by members |
| |
| 12. Appointment of members or officers to outside bodies, save to relevant professional associations. |
| |
| 13. The appointment of members to the Executive or any committee of it, or to any joint committee, any body or panel appointed by the Executive, and any appeal or representation panel |
| |
| 14. Approval of matters reserved to Members as set out in Section R Contracts. |

## J EXECUTIVE DIRECTOR CHILDREN & YOUNG PEOPLE

Subject to those matters reserved to members in Table 2 below, unless the law, the Constitution or this Scheme of Delegation requires otherwise, the following executive powers are delegated to the Executive Director for Children and Young People:

(a) Authority to exercise the Council's executive functions in relation to children's services under Section 18 Children Act 2004 and any other functions delegated to the Executive Director for Children and Young People from time to time. This includes, but is not limited to, decisions made in relation to those matters defined as social services functions in Section 1 Local Authority Social Services Act 1970. By way of example only this includes matters under the National Assistance Act 1948, Chronically Sick and Disabled Persons Act 1970, Children Act 1989, National Health Service and Community Care Act 1990, Health Act 1999, Health and Social Care Act 2000, Children Act 2004 and all other relevant legislation in force from time to time.

For the avoidance of doubt this includes, but is not limited to, executive decisions in relation to the following matters in so far as they relate to children:-

- Residential and day care placements
- Family placements
- Fostering and adoption services
- Family support and intervention
- Respite care
- Social work with children and young people
- Children with disabilities
- Children with mental health problems and/or learning difficulties
- Children with special needs

(b) Authority to exercise the Council's executive education functions including but not limited to those matters contained or referred to in the Education Act 1996, Education Act 1997, School Standards and Framework Act 1998, Education Act 2002, Children Act 2004, Education Act 2005, Education and Inspections Act 2006, Education and Skills Act 2008, Apprenticeships, Skills, Children and Learning Act 2009, Academies Act 2010, Education Act 2011 and the Children and Families Act 2014 and all relevant legislation in force from time to time.

(c) The exercise of executive functions in relation to education outside the school environment including pre-school learning.

(d) All other executive functions relating to the internal management of the Directorate of Children and Young People which are not otherwise reserved to members.

(e) Delegation to the Executive Director for Children and Young People does not include the matters referred to in Table 2 below

**TABLE 2**

**EXECUTIVE MATTERS RESERVED TO MEMBERS**
**CHILDREN AND YOUNG PEOPLE**

| | |
|---|---|
| 1. | Approval of the Mayor's proposals to be submitted to the Council in relation to the statutory policy framework as set out in Paragraph 1 of Table 1 |
| | |
| 2. | Other policy matters including agreeing the overall strategy for the service, in particular the approval of the Children and Young People Plan. This would include but not be limited to the schemes of delegation to schools. |
| | |
| 3. | Approval of the Mayor's proposals for the budget for the service to be submitted to the Council (including revenue and capital) for approval |
| | |
| 4. | Decisions relating to the provision, commissioning or purchasing of services, which in the opinion of the Executive Director would lead to major changes in service delivery methods or service levels |
| | |
| 5. | Receipt and consideration of inspection reports and reports from external bodies, on any elements of children's services and/or particular cases and decisions arising out of that consideration which are pertinent to the Council. |
| | |
| 6. | The receipt and consideration of any report relating to the death, serious injury, abuse, allegations of abuse or any other matter of serious concern in respect of a child, student, school, establishment or of any other matter which in the opinion of the Executive Director for Children and Young People gives rise to serious concern in relation to the conduct of any element of children's services. |
| | |
| 7. | Decisions relating to the setting or amendment of permissible eligibility criteria for children's services, whether social services or otherwise, and charges in respect of those services |
| | |
| 8. | Decisions relating to the joint commissioning of services with health organisations or other external bodies which would have financial implications for the Council in excess of £500,000 |
| | |
| 9. | Decisions relating to the publication of any statutory notice in relation to schools or other educational units |
| | |
| 10. | Directions as to the occupation and use of school premises |
| | |
| 11. | Matters relating to the schools admissions policy, including admissions criteria. |
| | |

| | |
|---|---|
| 12. | School reorganisation - decisions relating to whether to issue a notice in respect of an establishment, discontinuance or alteration of schools, including decisions about whether to consult on such matters |
| | |
| 13. | Decisions relating to the instruments of government of any school |
| | |
| 14. | Appointment of LA governors and LA appointments to outside bodies save where such appointments are reserved to Council in accordance with the law or the Constitution. |
| | |
| 15. | Decisions relating to the Council's charging and remissions policy under Section 457 Education Act 1996 |
| | |
| 16. | Decisions relating to the Council's scheme for Financing of Maintained Schools. |
| | |
| 17. | Decisions to issue a closure notice in respect of any school under any power of intervention relating to schools causing concern. All decisions relating to schools causing concern prior to authorization of the issue of a closure notice are delegated to the Executive Director for Children and Young People. |
| | |
| 18. | All of those matters listed in Table 1. |
| | |

K. EXECUTIVE DIRECTOR COMMUNITY SERVICES

**Adult Social Services**

Unless the law, the Constitution or this Scheme of Delegation requires otherwise, the following powers are delegated to the Executive Director of Community Services, subject to the matters reserved to members in Table 3 below.

(a) Authority to exercise all the executive functions of the Director of Adult Social Services as defined by Section 6 Local Authority Social Services Act 1970, as amended by Section18 and Schedule 2 of the Children Act 2004. This shall include but not be limited to the following matters:-

- Administration of the Supporting People Grant
- Adult social work
- Domiciliary care
- Family placements for adults,
- Funerals under the National Assistance Act 1948
- Home care
- Hospital social workers

- Joint care planning, liaison and management with health organisations and other external bodies
- Residential and day care for adults
- Respite care for adults
- Services for elderly people
- Services for people with learning disabilities, mental health problems and/or learning disabilities
- Youth offending services

(b) Authority to exercise all of the Council's executive functions in relation to further and higher education and the provision of education, training and learning including adult and community learning.

(c) Authority to exercise all of the Council's executive functions in relation to leisure, culture, arts, sports, recreational activities, libraries museums, art galleries, theatres, archives, local history activity, leisure centres, management of parks and open spaces, allotments and any other such facilities.

(d) Any and all executive regulatory functions, including those relating to licensing, gambling, trading standards, noise, consumer protection, food safety and environmental protection.

(e) All executive decisions relating to the internal management of these functions which are not otherwise reserved to members.

(f) All executive functions in relation to community engagement and support including the enhancement of citizen participation at a neighbourhood level.

(g) The delegation to the Executive Director Community Services does not include the matters listed in Table 3 below.

**TABLE 3**
**MATTERS RESERVED TO MEMBERS**

| | |
|---|---|
| 1. | Approval of the Mayor's proposals to be submitted to the Council in relation to the statutory policy framework as set out in Paragraph 1 of Table 1 |
| | |
| 2. | Other policy matters including agreeing the overall strategy for the service, in particular the approval of a plan for adult social services and other plans |
| | |
| 3. | Approval of the Mayor's proposals for the budget for the service to be submitted to the Council (including revenue and capital) for approval |

| | |
|---|---|
| 4. | Decisions relating to the provision, commissioning or purchasing of services, which in the opinion of the Director would lead to major changes in service delivery methods or service levels |
| | |
| 5. | Receipt and consideration of inspection reports on any elements of any part of the service within the remit of the Director of Adult Social Services and decisions arising out of that consideration |
| | |
| 6. | The receipt and consideration of reports from any external body into the performance of the Council or the conduct of particular cases |
| | |
| 7. | The receipt and consideration of any report relating to the death, serious injury, abuse, allegations of abuse of a client or any other matter of serious concern which in the opinion of the Director of Adult Social Services gives rise to serious concern in relation to the conduct of any element of the service |
| | |
| 8. | Decisions relating to the setting or amendment of eligibility criteria for adult social services or other services within the remit of the Director of Adult Services, and charges in respect of those services |
| | |
| 9. | Decisions relating to the joint commissioning of services with health organisations or other external bodies which would have financial implications for the Council in excess of £500,000 |
| | |
| 10. | Decisions relating to the provision of community education which would entail the cessation of the service, decisions relating to the level of charges to be made in respect of those services and any decision which would in the opinion of the Director entail a significant change in the level of service provision, and any other matter which the Director is of the opinion is more appropriate for member decision. |
| | |
| 11. | All of those matters listed in Table 1. |

L EXECUTIVE DIRECTOR HOUSING, REGENERATION AND ENVIRONMENT

Unless the law, the Constitution or this Scheme of Delegation require otherwise, the following executive powers are delegated to the Executive Director Housing, Regeneration and Environment:

a) Subject to (k) below and those matters listed in Tables 4 and 4(a) below, in so far as they are the responsibility of the Executive, all executive functions in relation to matters within the remit of the Executive Director for Housing, Regeneration and Environment , including but not limited to:-

(i) responsibility for the management of housing properties in the Council's ownership whether that function is carried out by the Council itself or through a third party under contract, including but not limited to:-

- the clienting, monitoring and reporting on all contracts for the provision of housing management services to the Council

- the maintenance and management of all land and property held by the Council for housing purposes;

- the provision of garden, open spaces and land for housing purposes, decisions in relation to the right to buy under the Housing Act 1985 (or other relevant legislation in force from time to time, (but not decisions relating to market value and sale prices which are delegated to the Executive Director of Corporate Services),

- responsibility for setting charges for heat, light and power to Council properties served by a communal supply in accordance with policy approved by the Mayor

- dealings with housing associations, save to the extent that such decisions relate to housing development or capital schemes.

- all executive functions relating to housing strategy and development, housing need and homelessness including private sector housing, environmental health in private sector leasing, housing partnerships and environmental health (housing).

(b) the environment function, which shall include all environmental matters, by way of example but not limited to:-

- the maintenance of parks and community facilities
- waste management (collection, disposal, recycling etc)
- burial and cremation
- animal welfare and pest control

(c) Responsibility for the management, maintenance and operation of the Council's vehicle fleet

(d) Passenger Transport.

(e) Urban Regeneration Initiatives The management and implementation of all urban regeneration initiatives including housing regeneration schemes which have been approved by the executive including management of the

capital programmes and resources ensuring effective financial control of resources and the achievement of value for money.

(f) Application for external funding for schemes or projects relating to urban regeneration or other activities up to £1 million, save where such external funding would require match funding by the Council of £250,000 or involve revenue expenditure of that amount per annum.

(g) Estate management of Council assets including all assets but not schools (which is within the remit of Children & Young People).

(h) Property - those powers relating to property set out in Paragraph S of this Scheme of Delegation in so far as they are stated to be delegated to the Executive Director for Housing Regeneration and Environment.

(i) All Executive functions in relation to building control.

(j) All executive functions in relation to the Council's planning, highways, transport and traffic management functions

(k) Delegation to the Executive Director Housing, Regeneration and Environment does not include the executive matters listed in Table 4 below, which are reserved to Members:-

**TABLE 4**
**EXECUTIVE MATTERS RESERVED TO MEMBERS**
**HOUSING, REGENERATION AND ENVIRONMENT**

| |
|---|
| 1. Approval of the Mayor's proposals for submission to the Council in relation to the statutory policy framework as set out in paragraph 1 of Table 1 in so far as they relate to the remit of the Housing, Regeneration and Environment Directorate |
| |
| 2. Approval of all other policies and overall strategy in so far as they relate to the remit of the Housing, Regeneration and Environment Directorate, including housing policy and all other plans and priorities, including those relating to lettings and allocations, tenancy agreements and rent arrears collection |
| |
| 3. Approval of the Mayor's proposals for submission to the Council in relation to the budget relating to the remit of the Housing, Regeneration and Environment Directorate, including but not limited to the proposals for housing expenditure, Housing Revenue Account estimates, rent and charges. |
| |
| 4. Approval of proposals, for consideration by the Council prior to submission for ministerial consent (including any drafts of these proposals). |
| |

| |
|---|
| 5. The approval of any proposal relating to the adoption or amendment of the local development framework to be referred to Council, including any draft for consultation |
| |
| 6. Decisions relating to charges for services |
| |
| 7. Decisions to write off debts arising out of rent arrears in excess of £10,000 |
| |
| 8. All of those matters listed in Table 1. |
| |

(l) Neighbourhood Planning

(i). With the exception of those matters listed in Table 4a below, the following neighbourhood planning matters are delegated to the Executive Director Housing, Regeneration and Environment or such person as he/she may nominate:-

- All decisions in relation to neighbourhood planning as set out in the Localism Act 2011, and regulations made thereunder, including under any amendments made to the Act or secondary legislation in force from time to time, save those matters listed in Table 4a below.

(ii). Neighbourhood planning matters shall include, but not be limited to, all decisions relating to proposals for and declaration of neighbourhood areas, neighbourhood forums, neighbourhood plans, neighbourhood development orders, community right to build orders and all other matters set out in Part 6 Localism Act 2011, amendments thereto and all relevant regulations in force from time to time.

(iii). Where in the opinion of the Executive Director for Housing, Regeneration and Environment or the Council's Director of Planning a referral of a neighbourhood planning matter which has been reserved to Members, to them for decision, would entail a breach of the statutory timetable in which decisions relating to neighbourhood planning have to be made, the Executive Director for Housing, Regeneration and Environment, or such person as he/she may nominate, shall have authority to make that decision provided that she informs the Mayor, or in his absence the Deputy Mayor, in writing of that fact prior to making the decision and the Mayor agrees.

(iv). Any decision delegated to the Executive Director for Housing, Regeneration and Environment, or such person as she may

nominate, may be referred to Members for decision if either the Executive Director for Housing, Regeneration and Environment or the Director of Planning is of the opinion that the matter ought more properly to be dealt with by Members.

(v) If the Mayor requests an officer not to exercise delegated authority, then that officer will comply with the Mayor's request and refer the matter to Members for decision.

(vi) For the avoidance of doubt, the Mayor notes and approves that the Executive Director for Housing, Regeneration and Environment nominates the Director of Planning to exercise all decision making powers in respect of neighbourhood planning matters which have been delegated to her.

**TABLE 4 (a) –**
**EXECUTIVE NEIGHBOURHOOD PLANNING MATTERS RESERVED TO MEMBERS**

- Any decision whether to decline to consider, refuse a proposal for a neighbourhood area, forum, plan, development order, or community right to build order.
- Any decision about the action to be taken in response to the report of an Examiner
- Any matter which the Executive Director for Housing, Regeneration and Environment is of the view ought more appropriately to be dealt with by members.

M EXECUTIVE DIRECTOR CORPORATE SERVICES

Unless the law, the Constitution, or this Scheme of Delegation require otherwise, the following executive powers are delegated to the Executive Director for Corporate Services:-

(a) Subject to (b) below, in so far as they are the responsibility of the Executive, all those matters which are necessary properly to exercise the administration of the Council's finances including but not limited to:-

1. **Day to day control** and regulation of the Council's finances

2. **Virements** in accordance with Part K of the Constitution and Paragraph U of this Scheme of Delegation

3. **Contracts decisions** - Those delegated powers set out in Paragraph R – Contracts of this Scheme of Delegation

4. **Property** - those powers relating to property set out in Paragraph S of this Scheme of Delegation in so far as they are stated to be delegated to the Executive Director for Corporate Services.

5. **Insurance** arrangements decisions – Those delegated powers set out in Paragraph R – Contracts of this Scheme of Delegation

6. **Treasury Management** In so far as they are executive decisions, matters delegated to the Executive Director for Corporate Services in accordance with the Council's Treasury Management Strategy from time to time.

7. **Grants** Those powers set out in relation to grants and assistance to voluntary and other external bodies set out in Paragraph P of this Scheme of Delegation.

8. **Allocation** The approval of allocation of items of expenditure to the General Fund and Housing Revenue Account, subject to the submission of an information report to the Overview and Scrutiny Public Accounts Select Committee each year to inform them of the allocation.

9. **Subscriptions** Affiliations to and payment of subscriptions to outside bodies up to a maximum of £25,000 per annum.

10. **Bad debt** The approval of the write off of bad debt in accordance with Paragraph S of this Scheme of Delegation.

11. **Security and information governance -** All Executive functions in relation to information security and information governance.

(b) Delegation to the Executive Director for Corporate Services does not include the executive matters listed in Table 5 below

**TABLE 5**
**EXECUTIVE MATTERS RESERVED TO MEMBERS**
**CORPORATE SERVICES**

| |
|---|
| 1. Approval of the revenue and capital budget proposals for submission to the Council |
| |
| 2. Approval of proposals for medium term financial planning and budget strategy for submission to the Council |
| |
| 3. Approval of proposals for the borrowing and investment strategy for submission to the Council |
| |
| 4. The approval of any loan to any person, company or other organisation save in accordance with the Treasury Management Strategy in force from time to time, or to employees in accordance with a scheme previously approved by the Executive |
| |
| 5. Virements across budgets may only be made by members where the virement is outside the limits set out in Part IV.I of the Constitution. In effect, virements of revenue budget up to £500,000 may be made by the Executive Director for Resources and relevant Executive Director. Virements over £500,000 and up to £1 million are reserved to executive members. Budget virements above that level are for the Council to make. |
| |
| 6. Contracts – Matters reserved to members are set out in Paragraph R – Contracts – Table 8A |
| |
| 7. Property - The Executive Director for Corporate Services may only exercise delegated authority in relation to the disposal or acquisition of property in accordance with paragraph S of this Scheme of Delegation. Decisions relating to property transactions which do not fall within that paragraph shall not be exercised by officers. |
| |
| 8. Insurance arrangements decisions – Matters reserved to members are set out in Paragraph R – Contracts - Table 8A. |
| |
| 9. Grants falling outside the categories set out in paragraph P of this Scheme of Delegation |
| |
| 10. Affiliation to and the payment of subscription to external organisations in relation to executive functions where the subscription is more than £25,000 per annum |
| |
| 11. Approval of the Mayor's proposals for submission to the Council in relation to the statutory policy framework as set out in paragraph 2 of Table 1. |
| |
| 12. Decisions relating to increases in charges for services exceeding the rate of inflation. |
| |

| |
|---|
| 13. Monitoring of expenditure by the Council or other body where funds have been obtained externally where the Council is the accountable body |
| |
| 14. Decisions relating to the establishment, amendment or abolition of controlled parking zones. |
| |
| 15. All of those matters listed in Table 1. |

N THERE IS NO SECTION N

O DELEGATION TO THE DIRECTOR OF LAW

(1) The following have delegated authority to initiate, conduct and defend all legal proceedings, public inquiries and planning appeals brought by or against the Council in any Court, Tribunal or Arbitration and may make representations at any public inquiry held by or on behalf of any Minister or public body:

(a) the Director of Law;
(b) any individual holding the position of Principal Lawyer, Senior Lawyer or Lawyer within the Legal Services Department.

(2) The Director of Law has delegated authority to settle proceedings for up to £500,000 subject to budgetary provision being available if she is of the opinion that it would be in the interests of the Council to do so. Subject to the same financial limit, the Head of Personnel & Development, Head of People Management Services, Strategic Advisors (Human Resources) and Human Resources Business Manager may also sign form COT3 in relation to potential claims arising out of the National Agreement on Pay & Conditions commonly known as the Single Status Framework Agreement on the advice of the Director of Law.

(3) The Director of Law has delegated authority to settle proceedings up to £1 million if she is satisfied that it is in the interests of the Council to do so, has consulted with the Executive Director for Corporate Services and she agrees with the terms of the proposed settlement. Decisions to settle proceedings for a sum above £1 million shall be taken by the Mayor.

(4) Power to enter into financial settlement of up to £1 million in respect of any matter where legal proceedings are threatened against the Council where she has consulted the Executive Director for Corporate Services and is satisfied that it is in the Council's overall interest to do so.

(5) The Director of Law has delegated authority to act as the proper officer for those purposes listed in Table 6 below.

(6) In the absence of the Director of Law, the functions delegated under Paragraph (2)-(6) above may be exercised by any person holding the position of Principal Lawyer with the Council.

**TABLE 6**

| |
|---|
| 1. The certification of photographic and other copies of documents held in the custody of the Council and byelaws (Section 229 and 238 Local Government Act 1972 |
| |
| 2. To receive and retain documents deposited with the Council. This provision is without prejudice to the powers of any other person so authorised for this purpose. (Section 225 Local Government Act 1972) |
| |
| 3. To sign DS1 relating to the discharge of advances made pursuant to the Housing (Financial Provisions) Act 1958, the Housing Purchase and Housing Act 1959 and the Housing Act 1985 |
| |
| 4. To sign on behalf of the Council any contract, deed or document including those for the purchase or sale of land, in accordance with the Council's procedure rules for the signing of contracts, as set out in Part IV I of the Constitution |
| |
| 5. To issue Notices pursuant to the making of any compulsory purchase order under statutory powers available to the Council; and Notices to Treat and Notices of Entry under any compulsory purchase order which has been approved by the appropriate government department. |
| |
| 6. Without prejudice to any powers delegated to other officers of the Council, to issue on behalf of the council all Notices, orders and/or similar documents pursuant to legislation in force from time to time |
| |
| 7 To determine applications in relations to Town Greens |

## P DIRECTOR OF PUBLIC HEALTH

Unless the law, the Constitution, or this Scheme of Delegation requires otherwise, executive powers relating to the Council's public health functions are delegated to the Director of Public Health, save to the extent that they are specifically excluded below, or from time to time.

**TABLE 7**
**EXECUTIVE MATTERS RESERVED TO MEMBERS**
**PUBLIC HEALTH**

| |
|---|
| 1. Consideration of the annual report of the Director of Public Health. |
| |
| 2. All those matters listed in Table 1. |

Q GRANTS AND ASSISTANCE TO VOLUNTARY ORGANISATIONS

(1) Unless the law, the Constitution, or this Scheme of Delegation requires otherwise, the following executive powers are delegated to the Chief Executive and to each Executive Director in relation to grants and assistance to voluntary organisations:-

(a) the power to make a grant or to give other assistance to a voluntary organisation within their area of responsibility, where the total value of the assistance in money or moneys worth does not exceed £10,000

(b) the power to reduce or withdraw a grant or other assistance, and the power to make a grant or give other assistance to a voluntary organisation (irrespective of the value of the grant or assistance) within their area of responsibility if the value of the grant or assistance is smaller or larger than that awarded in the previous year by no more than 10% or £5000 whichever is the larger

(2) The decisions set out in Table 8 below are not delegated to officers in relation to grants and assistance to voluntary organisations.

**TABLE 8**
**EXECUTIVE MATTERS RESERVED TO MEMBERS**
**GRANTS AND ASSISTANCE TO VOLUNTARY ORGANISATIONS**

| |
|---|
| 1.Making a grant or giving assistance to a voluntary organisation where the total value of the grant and/or assistance exceeds £10,000 |
| |
| 2. Making a grant or giving assistance to a voluntary organisation where the grant and/or assistance (irrespective of the amount) is smaller or larger than that awarded in the previous year by 10% or £5000, whichever is the larger |
| |
| 3. Decisions to suspend or withdraw funding completely from a voluntary organisation, where the annual funding given exceeds £10,000 |
| |
| 4. The consideration of monitoring reports on voluntary organisations' activity and decisions to be taken as a result of that consideration |
| |
| 5. Approval of the criteria for voluntary sector funding and/or assistance |
| |
| 6. Decisions in relation to grants and/or assistance below £10,000 per annum where the Mayor or Executive requests that the matter be reserved to members, or where in the opinion of the relevant Executive Director, the Chief Executive or the Director of Law the matter would more appropriately be dealt with by members. |

R CONTRACTS

(1) Decisions related to the letting of contracts other than those set out in Table 8A below are delegated to the relevant Executive Director in accordance with their delegated financial limits under this Mayoral Scheme of Delegation or in accordance with the relevant Directorate Scheme of Delegation or their nominee.

(2) Those decisions related to the letting of contracts set out in Table 8A below are not delegated to officers but are delegated to the Executive acting collectively.

**TABLE 8A**
**EXECUTIVE MATTERS RESERVED TO MEMBERS**
**CONTRACTS**

*Notes:*

- *Category A contracts are those where the cumulative expenditure per contract is above £500,000 (goods or services) or above £1 million (works).*
- *Public realm works are those relating to any publicly owned streets, pathways, public spaces.*
- *Works contracts are those relating to building, construction and engineering.*

1. Contract Pre-tender authorisations (Contract Procedure Rules 3.1)
   a) Decisions about pre-tender authorisation for contract relating to public realm works with a value in excess of £100,000.
   b) Decisions about pre-tender authorisation for Category A contracts.

2. Contract Award (Contract Procedure Rules 13)
   a) Decisions about award of Energy or Water Contracts where:
      - the additional cost of green electricity over brown exceeds 5%; or
      - the overall cost of the contract exceeds the annual value of the previous contract by 50%; or
      - the contract length exceeds 4 years.
   b) Decisions about award of any contract relating to public realm works with a value in excess of £100,000.
   c) All Decisions about award of contracts within Category A.

3. Contract Award – Contracts Exceeding the Written Estimate (Contract Procedure Rules 13.7)

Decisions about award of contracts where the 'Expenditure per contract' exceeds the original 'Estimated expenditure per contract' (see Contract Procedure Rule 4.1) as set out below:

- Goods and Services: difference is more than 20% and is over £100,000;
- Works: difference is more than 25% and is over £250,000.

4. Permitted Extension or Variation of Contracts or Framework Agreements (Contract Procedure Rules 17)

Decisions about Permitted Extensions or Variations of Contracts or Framework Agreements in relation to expenditure at the levels set out below.

Levels: whichever is the greater of -

- Where the value of an extension or variation is more than 10% of the original contract; or
- Above £500,000 (Goods or Services) or above £1,000,000 (Works).

| |
|---|
| 5. <u>Exemption from the Contract Procedure Rules (Contract Procedure Rules 18)</u><br>Decisions about allowing exemption from the requirements of Contract Procedure Rules where the value of the contract is above £500,000 (goods or services) or above £1 million (works). |

S PROPERTY

Unless the law, the Constitution, or this Scheme of Delegation require otherwise, the following executive powers are delegated to the Executive Director Housing, Regeneration and Environment in relation to property matters:-

(1) Acquisition

The acquisition of freehold and/or leasehold interest in land and property or other interest in land including the payment of Home Loss and Disturbance Payments, subject to the necessary financial provision having been made.

(2) Property Management

In relation to all properties save dwelling houses let on secure tenancies, to take the following actions, provided where applicable, that the necessary financial provision has been made.

a) The grant (including renewal) of leases, licences or tenancies, easements or wayleaves of all Council owned land and property for a rental or licence fee reflecting market value.

b) The grant (including renewal) of wayleaves or easements over or affecting Council owned land and property, including licences of advertisement hoardings.

c) Authority for the Council to take leases, licences, tenancies, wayleaves or easements (including renewal) of land and property .

d) The approval of rent or fee reviews of leases, licences, tenancies, wayleaves or easements granted or held by the Council.

(e) The alteration or waiver of terms and conditions of leases, licences, tenancies, wayleaves or easements granted or held by the Council.

(f) The approval of terms for the waiver, variation or amendment of covenants in transfer documents including those in respect of properties sold under the Right to Buy.

g) The approval of the terms for the assignment, subletting, surrender or operation of a break clause of any lease, licence, tenancies, wayleaves or easements granted or held by the Council in any land or property.

h) The approval of the terms for the settlement of any claim for dilapidations or other breaches of covenants in respect of land and property.

i) The authorisation of service of notices under all legislation relating to Council land ownership.

j) Authority to instruct the Director of Law to instigate court proceedings for the recovery of all monies owing to the Council and possession of land and property, including authorisation of the enforcement of a Court Order for Possession.

k) The authorisation of the levying of distress against occupants of land and property in arrears where the Executive Director for Housing, Regeneration and Environment is of the opinion that it is appropriate to do so

(3) Declaring Property Surplus

a) Upon being advised by the Executive Director for the Directorate using a property that it is surplus to the requirements of that Directorate, the Executive Director for Housing, Regeneration and Environment may, following consultation with other Directorates as to any alternative use for the property, and having first informed the ward members in which the property is situated, declare the property surplus to corporate requirements and authorise its disposal, if no alternative use is identified by Directorates, provided that the estimated value of the property does not exceed £500,000.

b) If a property no longer required for use by a Directorate is required for an alternative use, the Executive Director for Housing, Regeneration and Environment may authorise its appropriation to the new use and the value at the time of change of use, for capital charge purposes

c) If in the view of the Executive Director for Housing, Regeneration and Environment, a property ought to be disposed of notwithstanding a proposed alternative use, the matter shall be referred to members for decision.

(4) Disposal

A Disposal is defined as the sale of the Council's freehold interest or the grant of a lease exceeding 7 years in length in consideration of a premium and/or ground rent. Disposals will be effected in such a way to ensure that the Council receives the best consideration reasonably obtainable and in accordance with the Property Disposal Procedures approved by the Executive from time to time. Any proposed disposal at less than the best consideration reasonably obtainable will be referred to the Executive for approval. All disposals will be subject to any necessary Ministerial Consents being obtained.

a) Subject to any limitations set out elsewhere in this scheme of delegation, the valuation of properties and the decision to dispose, and the approval of the terms for the disposal of land or property which has previously been declared surplus to requirements and approved for disposal by the Executive Director for Housing, Regeneration and Environment acting under delegated authority.

b) The disposal of residential dwellings where there is a legal obligation on the Council to sell.

c) The approval of terms for the disposal of mortgage repossession properties, subject to the other relevant provisions of this paragraph

d) The approval of terms for the disposal of vacant land and property in charge to the Council, subject to the other relevant provisions of this paragraph 4.

e) The approval of the terms for the disposal of any residual freehold interest in a block/building to all leaseholders jointly, subject to all other relevant provisions of this paragraph 4. This is also subject all units having previously been sold and suitable arrangements being entered into by all parties regulating the future management of the whole block/building.

f) Authority to take such action as is necessary in accordance with agreed procedures concerning the disposal of land or property.

(g) The approval of the terms for the assignment, subletting, surrender or operation of any break clause of any lease, licence, tenancies, wayleaves or easements granted or held by the Council in any land or property which has been declared surplus to requirements.

(5) Capital Finance Regulations

For the avoidance of doubt, the Executive Director for Corporate Services (and not the Executive Director for Housing, Regeneration and Environment) may make decisions to earmark the proceeds of sale from asset disposals for expenditure on in/out schemes under the Local Authorities (Capital Finance and Accounting) Regulations 2003 and any amendments thereto, including (without limitation) regeneration projects and replacement of asset schemes subject to the schemes themselves having previously been approved by the Executive or as delegated by the Mayor.

(6) Property - General

a) In accordance with the provisions of Part IV I of the constitution, authority to sign property related documentation for or on behalf of the Council in relation to all powers delegated by this Scheme of Delegation and up to any limits imposed by this Scheme, save for documents to be entered into by way of deed.

b) Authority to agree terms and enter into agreements for any matter of a minor or urgent nature affecting land or property either owned or leased by the Council.

c) Authority to undertake and sign valuations for statutory or other Council purposes.

d) The submission of planning applications.

e) To approve the terms of such other agreements or transactions as may be in the best interests of the Council of a minor or urgent nature

f) to take such actions and incur such expenditure as is necessary to ensure the proper management of council owned property.

(7) The executive decisions set out in Table 9 below are not delegated to officers but are reserved for decision by members

**TABLE 9**
**EXECUTIVE MATTERS RESERVED TO MEMBERS**
**PROPERTY**

| |
|---|
| 1. Any decision relating to the use of the Council's compulsory purchase powers |

| |
|---|
| 2. Any decision to declare as surplus to requirements, market, acquire or dispose of property where the value of the property exceeds £500,000 |
| |
| 3. Any decision where conditions on the exercise of delegated authority by the Executive Director for Corporate Services have not been fulfilled |
| |

T WRITING OFF DEBT

Unless the law, the Constitution, or this Scheme of Delegation require otherwise, the following executive powers are delegated to officers in relation to bad debt:-

(1) Save in relation to housing rent arrears, the Executive Director for Corporate Services has delegated authority to write off bad debt up to £50,000. However if debts of the person or organisation to that total have been written off by the Council in the previous three years, the decision shall not be delegated to the Executive Director Corporate Services. In such cases the power is reserved to members.

(2) Authority is delegated both to the Executive Director Housing, Regeneration and Environment and the Executive Director for Corporate Services to write off bad debt in relation to housing rent arrears up to £10,000. Above that threshold, the authority to write off bad debt in respect of housing rent arrears may only be exercised by members.

U VIREMENTS

Unless the law, the Constitution, or this Scheme of Delegation requires otherwise, the following executive powers are delegated in relation to virements:-

(1) Up to £500,000 authority is delegated to the Executive Director for Corporate Services, and to other relevant Executive Directors with the approval of the Executive Director for Corporate Services

(2) Decisions relating to virements of £500,000 up to £1 million are reserved to members.

V EMPLOYMENT MATTERS

Save as required by law, the Council's Constitution or this Scheme of Delegation decisions relating to all employment procedures and processes are delegated to the Chief Executive and/or such person as he may nominate, in so far as they are executive functions, unless they are specifically reserved to members.

The matters contained in Table 10 below are reserved to members.

**TABLE 10**
**MATTERS RESERVED TO MEMBERS**
**EMPLOYMENT**

| |
|---|
| Re-organisations involving at least 200 staff. |
| |
| Appointment of members to, and membership of, the Council's two local joint committees (Teachers and Staff) and Works Council whose terms of reference are appended at Appendix 4. |

W BIDDING FOR EXTERNAL WORK

Decisions about whether the Council should bid for, and if successful, perform work or provide services to external bodies is delegated to the Chief Executive, to the extent that the proposed contract would relate to executive functions. Before exercising this function, the Chief Executive must first consult with the Director of Law and Executive Director for Corporate Services. However, where the estimated value of the work exceeds £1 million per year, or £3 million in total whichever is the smaller, the Chief Executive shall not exercise this delegated power.

X CRIME AND DISORDER

Decisions relating to the implementation of the Council's Crime and Disorder Strategy are delegated to the Chief Executive and/or such persons as he/she shall nominate.

Y MAYORAL DECISIONS

The powers delegated by the Mayor in this Scheme of Delegation may be exercised by the Mayor at any time.

Z DIRECTORATE SCHEMES OF DELEGATION

The extent to which the power to make executive decisions is delegated to officers below Executive Director is set out in the Directorate Schemes of Delegation, which schemes may be amended by the relevant Executive Director at any time.

AA JOINT COMMITTEES

The Council participates in joint committees which exercise executive functions. They are SELWDG - South East London Waste Disposal Group, Joint Committee with the London Borough of Croydon on Street Lighting and the Association of London Government bodies shown as joint committees below. The Mayor has agreed to continue participation in these bodies and has appointed the following members to serve on them:

a) South East London Waste Disposal Group (SELWDG) – Councillor Sophie McGeevor

b) Joint Section 101 Committee with the London Borough of Croydon on Street Lighting – Councillor Sophie McGeevor and Councillor Kevin Bonavia

c) London Councils Committee and Panels

| **Committee/Panel** | **Membership** | **Appointee 2019/20** |
|---|---|---|
| Leaders' Committee (s101 Joint Committee) | Boroughs nominate one voting member (usually Leader, but not necessarily) and up to two named deputies. All three members will receive papers for meetings | Mayor Damien Eagan<br>Deputy: Councillor Kevin Bonavia |
| London Boroughs Grants Committee | Boroughs nominate directly one voting member and up to four named deputies | Councillor Jonathan Slater<br>Deputy: Councillor Amanda De Ryk |
| Greater London Employment Forum | Boroughs nominate directly (usually lead member for transport and/or environmental issues). One voting member and up to four named deputies | Councillor Joe Dromey<br>Deputy: Councillor Amanda De Ryk |

| | | |
|---|---|---|
| Transport and Environment Committee) | Boroughs nominate directly (usually lead member for transport and/or environmental issues). One voting member and up to four named deputies | Councillor Brenda Dacres<br>Deputy: Councillor Sophie McGeevor |

Those members appointed may represent the Council within the terms of reference of the relevant Committee/Panel.

BB HEALTH AND SAFETY AT WORK

Executive decisions relating to Health & Safety at Work in relation to the Council's role as employer are delegated to the Chief Executive and/or such officer as he may nominate.

CC ASSETS OF COMMUNITY VALUE (as defined in Part 5, Chapter 3 Localism Act 2011

Executive decisions are to be made in accordance with the attached Community Right to Bid Guidance for officers, (as may be amended from time to time by the Chief Executive). References in that Guidance to ‘designated Directors’ and to an ‘executive director’ will be to the Director and/or executive director nominated by the Chief Executive in any particular case.

DD COMMUNITY RIGHT TO CHALLENGE

Executive decisions are to be made in accordance with the attached Guidance Note – Community Right to Challenge (as may be amended from time to time).

# Community Right to Bid Guidance for Officers

## 1. Introduction

The Community Right to Bid is a statutory right given to community and voluntary bodies to nominate assets of community value. The right also enables eligible community organisations to bid for the assets when they come up for sale. This note provides guidance to officers about how the Council will handle this statutory right.

## 2. Scope of responsibilities

The framework within which asset nominations are to be managed is provided for in regulations. The Council's responsibilities extend to:

- Making decisions on asset nominations
- Maintaining and publicising two lists; one for successful nominations and the other for unsuccessful nominations
- Ensuring that reviews are conducted fairly and in timely manner
- Maintaining audit trails of evidence used to inform decision making
- Making decisions on compensation claims

A decision making process has been developed which describes how the above-mentioned functions will be managed within the framework. This appears at Appendix A, whilst a flowchart illustrating the bidding process is at Appendix B.

| Key stages | Note |
|---|---|
| **Processing applications** | |
| 1. On receipt of an application to nominate an asset of community value, **the list administrator (acting on behalf of the Principal Property Lawyer) must notify the designated Director (generally the Director of Community and Neighbourhood Development)** that an application has been submitted and requires a decision. | A dedicated email account: 'community assets' has been set up to receive nominations for assets of community value.<br><br>A number of officers from across the Council have direct access to the 'community assets' email account. Collectively this group will ensure that there will always be an officer available to identify and process new applications as they arrive. |

| | |
|---|---|
| 2. **The list administrator must then forward details** of the application to the designated Director for consideration and advise **the Principal Property Lawyer who must provide written notification** to the owner and lawful occupant of the land, that their property has been nominated. | In order to ensure that the land/ asset owner is given notification that their asset is being considered for nomination, Land Registry searches and other enquiries may need to be made in order to establish ownership and occupancy. |
| **Making an initial decision** | |
| 3. **On receipt of the application the designated Director must consider the application and make an initial decision.** Specifically, the designated Director will need to determine:<br>• whether the application is **made by an eligible organisation**<br>• whether the application **meets the definition** of an 'asset of community value'.<br><br>4. If additional information is **required the designated Director may (at their discretion) contact the nominating organisation** and ask for this to be supplied.<br><br>5. **The designated Director must reach a decision** as to whether or not to list the asset within 8 weeks of receiving the nomination.<br><br>6. **Once the designated Director has reached a decision they must advise** the Principal Property Lawyer of that decision. | Only a voluntary or community body with local connection is eligible to make a community nomination. The regulations identify the following organisations as those able to nominate an asset of community value:<br>• a charity<br>• an unincorporated body whose members include at least 21 individuals and which does not distribute any surplus it makes to its members<br>• a body designated as a neighbourhood forum<br>• a company limited by guarantee which does not distribute any surplus it makes to its members<br>• an industrial and provident society which does not distribute any surplus it makes to its members<br>• a community interest company<br><br>The legislation provides that an asset satisfies the definition of an asset of community value if:<br><br>• the local authority decides that the actual main, current use of the building or land is to further the social wellbeing or social interests of the local community and it is realistic to think that there can continue to be a main use of the building or land which will further the social wellbeing or social interests of the local community; or |

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| 7. **The designated Director must then write to the nominating organisation and the property owner** to advise them of the decision. In the event that a nomination has been unsuccessful, the letter must include reasons for the decision not to list the asset.<br><br>8. **The designated Director must** maintain an audit trail of the evidence that informed their decision and **forward this to the list administrator or Principal Property Lawyer**. | • in the opinion of the local authority there is a time in the recent past when the actual and main use of the building or land furthered the social well being or social interests of the local community and, it is realistic to think that there is a time in the next five years when there could be a main use of the building or land that would further the social wellbeing or social interests of the local community.<br><br>"Social interests" includes (in particular) cultural, recreational and sporting interests. |
| **Review of the initial decision** | |
| 9. If within eight weeks of being notified in writing, the asset owner requests a review of the decision, the Council must undertake a review of its decision within eight weeks. The review **must be heard by an Executive Director**.<br><br>10. In advance of the review, **the Executive Director must write to the asset owner** advising them when a decision will be made and whether any additional information will be required to inform that decision.<br><br>11. To inform the review, the **Director who made the original decision must** compile the relevant documentation to enable the Executive Director to reach their decision.<br><br>12. Following the review **the Executive Director must** write to the asset owner and nominating body advising of the | The owner of the land has the right to ask for the Council's decision to be reviewed. However, the owner of the land must request a review within 8 weeks from time they are notified that the asset is to be included on the list.<br><br>The Council may however, extend the review request period if it so chooses.<br><br>If requested, the review of the decision to list must be completed within 8 weeks unless parties otherwise agree in writing.<br><br>An oral hearing must be held at owner's written request. If no request is made, the Council can decide whether or not an oral hearing is required.<br><br>Representations to the Executive Director reviewing the decision may be made by the owner/owner's representative orally and/or in writing.<br><br>The listing can also be removed if the Council for any reason no longer considers the land to be of community value and after a period of five years has elapsed (however |

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| decision, set out how the decision was reached and the implications.<br><br>13. If the request to review the listing of the asset is successful the entry must be removed from the successful nominations list **by the list administrator (acting on behalf of the Principal Property Lawyer)** and included on the list of unsuccessful nominations.<br><br>14. **The Executive Director must** maintain an audit trail of the evidence that informed their decision and **forward this to the list administrator or Principal Property Lawyer**. | after five years the asset can be re-nominated).<br><br>If the asset owner wishes to appeal against listing review decision they can lodge their appeal to a First-Tier Tribunal<br><br>The list must be published and be available for free inspection. One free copy of list must be provided on request<br><br>Local authorities are required to add that an asset has been listed to the local land charges register. This will ensure that all prospective new owners will be aware that an asset has been listed, since local land charges apply to both registered and unregistered land.<br><br>Local authorities are required to apply to the Land Registry for entry of a restriction on the Land Register when they list a building or other land as an Asset of Community Value, or, if necessary, where the owner of the listed asset has changed. The local authority is also required to apply to the Land Registry for cancellation of the restriction when it removes an asset from its list. |
| **Disposal of a listed asset** | |
| 15. Once the asset owner notifies the Council of their intention to sell the listed asset, **the Principal Property Lawyer must give written notification** to the community organisation which nominated the asset for listing and arrange for public notification of the proposed disposal (in the area where the land is situated). The letter to the nominating body as well as the public notification must clearly set out the process and timescales involved. | The asset owner must notify the Council in writing that they wish to enter into a relevant disposal. A “relevant disposal” is a disposal with vacant possession.<br><br>During this moratorium period a community interest group may request in writing to be treated as a potential bidder for the asset; this will bring the full moratorium period into force (see Appendix B).<br><br>Only a defined “community interest group” may express an interest in bidding for an asset. The community interest group does not have to provide any evidence of intention or financial resources to make such a bid. |

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| 16. Upon notification, **the Principal Property Lawyer must amend the successful nominations list to show that**:<br>• the notice of disposal has been received,<br>• the date the notice was received and the end of the:<br>- interim moratorium period (6 weeks from date of notification),<br>- full moratorium period (6 months from date of notification) and<br>- protected period (18 months from date of notification).<br><br>17. If during the six week moratorium period no eligible community organisation submits a written expression of interest to bid for the asset, the **Principal Property Lawyer must write to the asset owner** advising them that they are free to proceed with the sale of their asset to whomsoever they wish. | However, a community interest group must have one or more of the following structures:<br>• a charity<br>• a community interest company<br>• a company limited by guarantee that is non profit distributing<br>• an industrial and provident society that is non profit distributing (these groups will be renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 when the relevant provisions come into force) |
| **Responding to a request to bid** | |
| 18. If the Council receives a written request (in any form) within the six week interim moratorium period from a **community interest group** wishing to be treated as potential bidder, **details must be passed to the owner of the land by the Principal Property Lawyer**.<br><br>19. **The Principal Property Lawyer must also write to the eligible organisation** advising that their expression of interest has been received and has been forwarded on to the asset owner. | During this period it is up to the bidding organisation or organisations to pull together a business plan and finances to bid for the asset.<br><br>Other than passing on the details of a potential bidder to the asset owner the Council is not required to play any further role in facilitating a possible sale. |

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| **Dealing with compensation claims** | |
| 20. **Claims for compensation will be handled by the Head of Property and Estates** Upon receipt of a claim **the Head of Property and Estates** write back to the claimant confirming receipt.<br><br>21. **In considering the claim, the Head of Property and Estates must** ensure that there is sufficient evidence available to reach a decision.<br><br>22. At their discretion the **Head of Property and Estates** need to undertake a more detailed investigation in order to establish the validity of the claim. This may include inviting the claimant to provide additional evidence.<br><br>23. **Once the decision has been made the Head of Property and Estates must** write to the claimant with details of the decision.<br><br>24. **Head of Property and Estates must** maintain an audit trail of the evidence that informed their decision and **pass this on to the Principal Property Lawyer**. | The owner of land is entitled to claim compensation where they have "incurred loss or expense in relation to the land which would not have been incurred if the land had not been listed".<br><br>However, the claim must be made within 13 weeks after loss or expense incurred/finished being incurred.<br><br>There is no time frame for a decision to be reached. |
| **Compensation claim review** | |
| 25. In the event that the Council rejects a claim for compensation and the owner requests a review, **the review must be conducted by the Director of Regeneration and Place**<br><br>26. **The Head of Head of Property and Estates, who made the** | A request to review a compensation claim must be made within 8 weeks of written notification of reasons for decision on compensation, or such longer period as the Council may allow<br><br>The asset owner has the right to lodge an appeal against the compensation review |

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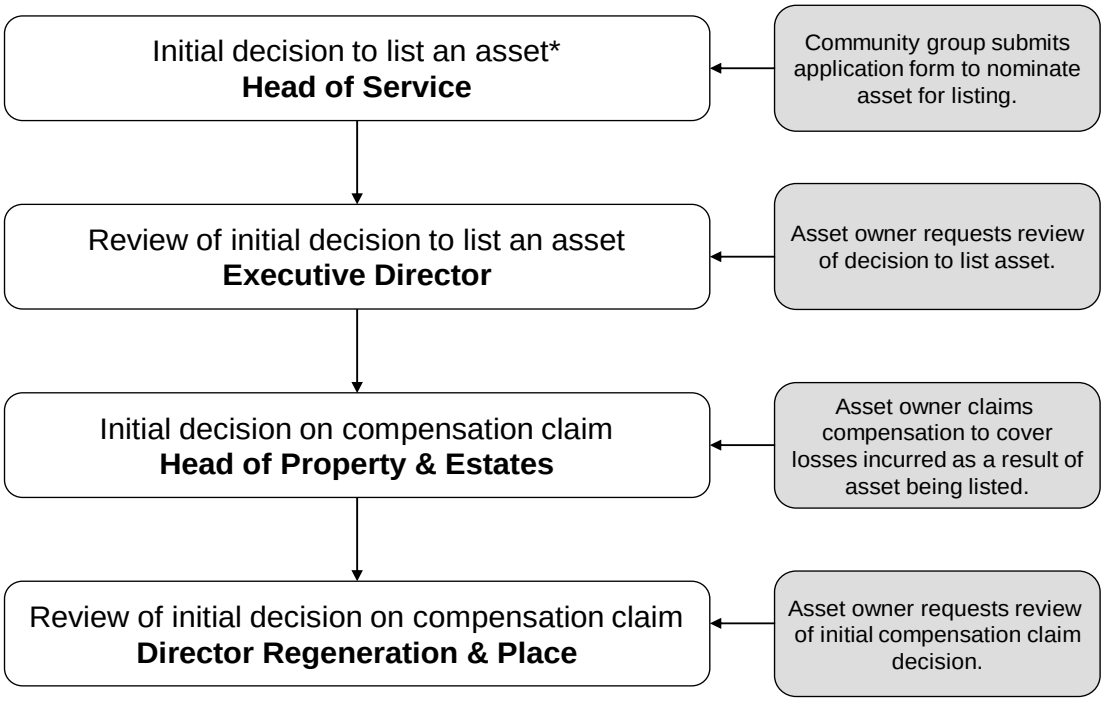
| **original decision, must** assemble the relevant documentation to enable the Director for Assets and Regeneration to undertake their review.<br><br>27. **The Director of Regeneration and Place** must maintain an audit trail of the evidence that informed their decision and **forward this to the Principal Property Lawyer**. | decision. This appeal will need to be lodged before a First-Tier Tribunal. |

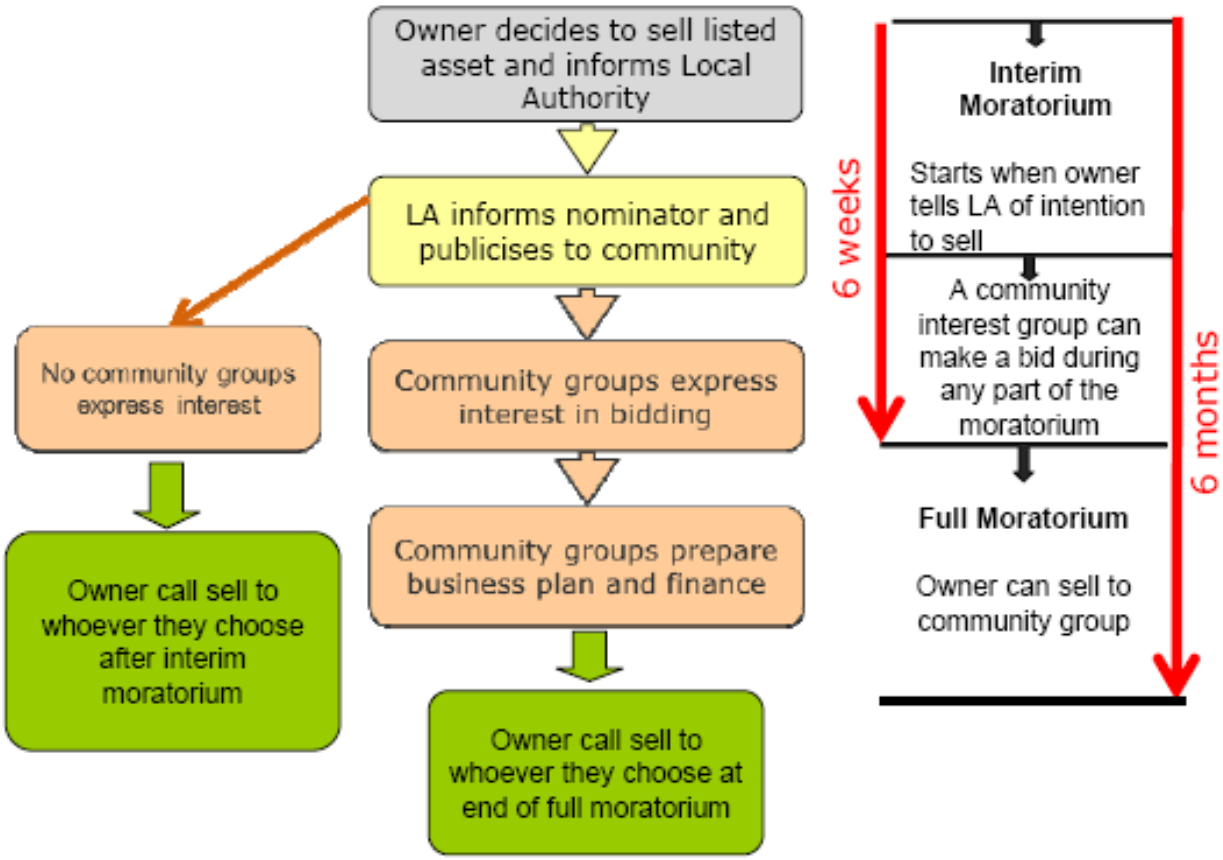
## Decision making flow chart




***The asset lists for both successful and unsuccessful nominations will be maintained by Legal Services.**

Who is doing roles below ED?

## Flow chart for bidding process



DD COMMUNITY RIGHT TO CHALLENGE (as defined in Part 5, Chapter 3 Localism Act 2011

Executive decisions relating to the Community Right to Challenge as set out in Part 5, Chapter 2 Localism Act 2011, are delegated in accordance with the Guidance Note attached (as may be amended from time to time by the Chief Executive).

# Guidance Note
# Community Right to Challenge

## 1 Introduction

The community right to challenge is a statutory right given to community, voluntary and employee bodies to express an interest in providing or assisting to provide Council services. This note provides guidance for officers about how the Council will handle this statutory right.

## 2 Advertising for Expressions of Interest

The Council can advertise that if organisations are interested in submitting an Expression of Interest (EOI) in providing a service they must do so within a period set by the Council. For those services which are already subject to contract, the Council's Procurement Team places an advert annually setting out details of contracts coming to expiry, with the periods in which organisations must make their Expression of Interest should they wish to do so.

## 3 Considering an Expression of Interest

What goes into an expression of interest is defined in law, and in deciding whether to accept an Expression of Interest the Council may only makes its assessment on the information which must be the basis of the EOI. If the Council accepts an EOI, then a procurement exercise must take place.

## 4 Assessment of EOIs

This first stage of the assessment process is concerned with making sure that the EOI is compliant with the legal requirements, and will be conducted by the Procurement Team on legal advice. The steps in the process are set out below with notes to assist.

| Step | Note |
|---|---|
| *Stage 1* | |
| 1. On receipt of an EOI, Strategic Procurement and Commercial Services Manager to notify the organisation submitting it of the maximum time it will take for a | This notification must be sent within 30 days of receipt of EOI, or 30 days of end of period for submission of EOI<br><br>It must also be published on the website<br><br>Different periods may apply to different services. The period should be reasonable and reflect such factors as the complexity of the service, the number of EOIs received, the likelihood of modifications to the EOI |

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| decision to be reached on the EOI | |
| | |
| 2. Check whether the service is exempt or not | The community right to challenge applies to almost all Council services with the exclusion of those provided to people with complex individual health or social care needs.<br><br>In addition, those services provided in partnership with health, or by health on behalf of the Council, will only be subject to the community right to challenge from April 2014.<br><br>Services commissioned by people in receipt of direct payments are also exempt. |
| | |
| 3. Check that the EOI is made by a relevant body | Relevant bodies are community, voluntary and certain employee bodies as well as bodies/trusts established for charitable purposes and parish councils. The Secretary of State may add to this list. Statutory guidance published June 2012 expands on this definition. Refer to attached guidance<br><br>EOIs may be submitted by a number of organisations acting in partnership. They do not all have to be relevant organisations, but any information required in an EOI must be provided in relation to all organisations making the submission. |
| | |
| 4.Check whether a decision has been made, evidenced in writing to stop the provision of the service | If so, the EOI should be rejected on this ground |
| | |
| 5. Check whether the Council is in negotiations with a third party for provision of the service | If so, the EOI should be rejected on this ground.<br><br>The negotiations must be, at least in part, in writing. |
| | |
| 6.Check whether the service is already the subject of a procurement exercise | If so, the EOI should be rejected on this ground |
| | |
| 7.Check whether the Council has published its intention to consider the provision of the | If so, the EOI should be rejected on this ground |

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| service by two or more of its employees | |
| | |
| 8 Check whether the Council advertised a period for receipt of an EOI in respect of the service, and if so was the EOI received in that period | See Para 2 above.<br>If not, the EOI should be rejected |
| | |
| 9. Has the organisation provided the necessary information about the financial resources of the organisation(s) submitting the EOI. | This is likely to include copies of the organisation's audited accounts for the last three years, business plans, and company structure. The information may differ depending on the service and the nature of the organisation. Seek legal advice if necessary.<br><br>If there is insufficient information on this point the Council may ask for the organisation to modify its EOI |
| | |
| 10. If the Procurement Team is satisfied that the EOI is compliant, the Strategic Procurement and Commercial Services manager will inform the ED Corporate Services and establish a working group to complete the evaluation of the EOI | The working group will consist of the ED Corporate Services, the ED of the relevant service area(s), the Director of Law and the Strategic Procurement and Commercial Services Manager (or their nominees). That group will assess Stage 2 of the process. Consideration will have to be given to ensuring that there is no conflict of interest for members of this group. Legal advice should be sought if necessary on this point. If the Strategic Procurement and Commercial Services Manager is not satisfied on legal advice that an EOI is compliant, he will submit a full report to the Executive Director for Resources for formal consideration.<br><br>If it is agreed by the ED that the EOI is non-compliant it will not be further considered and will be rejected. The Council will inform the organisation who submitted the EOI the ground(s) upon which it has been rejected. |
| | |
| *Stage 2* | |
| 11. Assess whether the organisation(s) submitting the EOI will be capable of providing the service by the time of any procurement exercise | The critical words here are "at the time of any procurement". The organisation may not be ready at the time of the assessment, but may have realistic plans to be so by the time of procurement. |
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| 12.Assess whether the outcomes proposed by the organisation(s) submitting the EOI would enhance the social economic or environmental wellbeing of the area, and how it will meet the needs of service users. | This reflects the best value duty and the requirements of the Public Services (Social Value) Act 2012 which is in force now. It means the Council should take into account social considerations as well as service requirements. It may include such matters as creating local jobs, improving local skills, increasing volunteering opportunities. Proportionate engagement with users would be expected.<br><br>The Council can also take into account value for money that a procurement exercise would entail greater costs or reduced costs including staffing and transfer costs. |
| | |
| 13. A report must then be prepared as the basis on which a decision is to be made about whether to accept or reject the EOI | If the value of the service exceeds £500,000, the report must be considered by the Mayor in accordance with the Mayoral Scheme of Delegation. Below that limit, the report is referred to the ED for Corporate Services, who may in any event refer the decision to the Mayor if appropriate to do so.<br><br>Any rejection may only be based on information contained in an EOI or a modification to it.<br><br>An EOI may only be rejected on the following grounds:-<br><br>• Non compliance with the Act or regulations<br>• Inadequate or inaccurate information in the EOI<br>• Unsuitability of the organisation, consortium member or sub contractor<br>• Decision made to stop the service<br>• Integration of service with health is critical to wellbeing of users<br>• Ongoing procurement exercise<br>• Ongoing negotiations with an employee body<br>• The EOI is frivolous or vexatious<br>• Acceptance would contravene the law or entail a breach of statutory duty |
| | |
| 14. The Council must then inform the organisation of its decision. | If the EOI is refused, the reasons must be specified. If the EOI is accepted, the Council must specify the length of time between acceptance and the commencement of the procurement exercise. |
| | |
| 15. The procurement exercise ensues in accordance with the law and Council standing orders. | In house proposals are not prohibited by the legislation or guidance, though the Council would need to be able to show that any internal proposal had been evaluated on the same terms as external bids. |
| | |

## 5. EOI by employees

When an EOI is submitted by 2 or more employees of the Council, arrangements will be put in place to ensure that there is no conflict between the interest of the employees concerned and that of the Council. It is likely that “Chinese walls” will have to be put in place to ensure that no conflict arises and that in any future procurement process the employee body is not seen to have had an unfair advantage over other tenderers by preferential treatment by the Council.

Following any expression of interest by employees, it is possible that they would have to take unpaid leave, or be moved to other unrelated duties until they have worked up any proposals in the procurement process in their own time. The arrangements will depend upon the circumstances of each case, but the underlying principle will be to treat all potential bidders, internal or external, with fairness.

**Annex 1**

**LONDON BOROUGH OF LEWISHAM WORKS COUNCIL CONSTITUTION AND FUNCTIONS**

1. Title

The Joint Committee shall be called the "Works Council".

2. Terms of reference

A. The functions of the Works Council shall be;

I. a forum for consultation and negotiation between the Council and its employees on corporate issues in relations to conditions of service;

II. to provide a forum for the discussion and prevention of differences and the resolution of disputes where they arise;

III. to establish regular consultation between the local authority and its employees on matters such as personnel policy initiatives;

IV. to make recommendations to the appropriate Committee on the application and interpretation of terms and conditions of service of employees;

V. to consider any relevant matter referred to it by a Committee of Council, or by the Joint Secretary of either Side; and

VI. to carry out such other functions as are specifically assigned to it.

It should be noted that any issue of relevance solely to one set of national conditions, or which is considered by one employee group to be of particular relevance to its conditions, may in the first instance be considered by the appropriate Local Joint Committee. It may be referred to the Works Council if both sides of the LJC considered it appropriate. Collective appeal rights to go directly from the LJC to provincial or national level will not be affected.

B. The Works Council shall not consider:

I. any matter concerning an individual employee, e.g. discipline, grievance, promotion or efficiency;

II. any matter which is properly the function of any other body, including the governing bodies of locally-managed institutions.

C. In the event of any matter arising upon which the Works Council cannot agree, the matter may be referred by either side to the appropriate recognised

negotiating body, in accordance with the relevant National Scheme of Conditions of Service.

D. The Works Council may refer any question before it for consideration by, and the advice of, the appropriate negotiating body and shall inform that body of any recommendation of the Works Council which appears to be of more than local interest, always provided that such recommendation shall be approved by the local authority prior to its submission to the provincial body.

E. The Works Council shall use its best endeavours to ensure that all relevant collective agreements are applied throughout the Council.

3. Membership

(a) The Councillors who sit on the Works Council should be such members of the Executive as the Mayor shall appoint and he appoints all members of the Executive with the exception of himself.

(b) The Union Side shall comprise not more than 17 employees.

(c) The Council and the constituent trade unions shall both appoint substitute members of the Works Council, any one of whom shall act as a substitute for a full member of the appropriate side in the event of the latter being unable to attend a meeting. A substitute attending a meeting in place of a member shall have the same powers as the member.

(d) If a member or a substitute member of the Works Council ceases to be a Member of the Council or an employee of the Council, that member shall cease to be a member of the Works Council. Any such vacancy arising shall be filled by the Employer's Side of the Union Side as appropriate.

4. Chair

A Chair and a Vice-Chair shall be appointed by the Works Council at its first meeting in each municipal year. The Chair shall be a member of the Employer's Side, the Vice-Chair shall be appointed from the Union Side.

5. Officers and Advisers

(a) Each Side of the Works Council shall appoint a Joint Secretary.

(b) Each Side may invite advisers to attend meeting of the Works Council. The Joint Secretaries shall notify each other of the advisers they are inviting to each meeting. Persons attending under this provision shall be entitled to speak.

6 Meetings

(a) The Works Council shall meet as required and not less than once a quarter. Either Joint Secretary may call a meeting at any time. The Joint

Secretaries shall arrange agenda, dates and times of meetings and for the circulation of documents for meetings. The Union Side Joint Secretaries of the other Local Joint Committees may attend any meetings arranged to discuss agendas with the Joint Secretaries.

(b) Items not included on the agenda for a meeting may be considered by the Works Council with the agreement of both Sides.

(c) A special meeting of the Works Council shall be called within 10 working days at the request of either Joint Secretary.

(d) The minutes of the Works Council shall be agreed by the Chair and Vice-Chair. Disputes about the minutes shall be resolved through the Joint Secretaries.

(e) The minutes shall be reported to the Executive.

7. Quorum

Three members of the Employer's Side and five members of the Union Side with at least one representative from each of the following groups; manual, craft, officer and teacher, shall constitute a quorum.

8. Payment to Union Side and their Advisers

Members of the Union Side shall receive payment at plain time rate for attendance at Works Council meetings.

# Annex 2

# DIRECTORATE SCHEMES OF DELEGATIONS

# The Directorate for Children and Young People Scheme of Delegation

## 1. Purpose

1.1. The Children and Young People's Directorate Scheme of Delegation sets out the post titles of those officers whom the Executive Director for Children and Young People (CYP) has nominated to take decisions on areas from the Council and Mayoral Schemes of Delegation where responsibility has been delegated to the Executive Director for CYP. The Executive Director for Corporate Services delegates the financial matters listed in this scheme to the Executive Director for Children and Young People unless otherwise stated.

1.2. This Scheme of Delegation will remain in force until it is amended or revoked by the Executive Director for CYP or via changes to the Council and Mayoral Schemes of Delegation.

1.3. The purpose of the CYP Directorate scheme of delegation is to be clear about which officer has been nominated to make delegated decisions within this directorate.

1.4. The scheme is subject to the Council's Constitution, the Council and Mayoral Schemes of Delegation, Financial Regulations and Standing Orders.

1.5. Directors will continue to be responsible for running their own services and taking decisions in line with their service requirements, unless specifically required in this scheme of delegation or determined by the Executive Director for CYP to seek other agreement.

1.6. Some decisions in this scheme of delegation will still be required to be taken directly by the Executive Director for CYP or, in their absence, they will nominate an appropriate officer/s to assume these responsibilities but, unless otherwise notified, the following delegations will apply:

- Directorate financial decisions – Director of Financial Services
- Legal decisions – Director of Law or Deputy Monitoring Officer/Principal Lawyers as appropriately nominated by the Director of Law
- Schools Personnel/Human Resources decisions – Director of Education Services
- Acts under authority delegated to the Executive Director for CYP in his/her absence – Director of Education Services, (unless specifically delegated to another Director of Service)
- Contract matters – Schools: Director of Corporate Resources

1.7. Note: schools covers all expenditure on the following services – standards and inclusion. It also includes all Special Education Needs expenditure and any other expenditure contained within the Dedicated Schools Grant.

1.8. All matters pertaining to Corporate Services have been temporarily delegated to the Director of Corporate Resources, acting as the Chief Finance Officer. The Director of Financial Services is temporarily acting as Deputy Section 151 officer.

1.9. Where the word 'nominee' is used the nomination is to be made by the post holder referred to, in writing, and a record of all such nominations within the directorate must be kept in the directorate and available for inspection at any time.

1.10. Where power is delegated to the Executive Director, and officers are nominated by him/her under this Scheme of Delegation, the power will be exercised in a manner that decisions are not made in isolation and that the decision-maker takes into account the broader corporate implications for the Council. If officers take key decisions, as defined in Article 16 of the Constitution of the London Borough of Lewisham, the law requires them to comply with prevailing access to information regulations. In addition, for key executive decisions which are to be taken by officers individually, the Chief Executive may, from time to time, put in place a procedure to ensure that officer decision making is exercised in a manner which reflects corporate considerations. Officers may only exercise delegated authority in relation to key executive decisions by complying with the procedures as stated in the Constitution.

1.11. Please note that the DEP/CEP process for staffing spend has been replaced by the Corporate Permission to Recruit (CPR)

1.12. For non-staffing spend, the financial regulations (section K of the constitution) conforms that Executive Directors

- (A8) have overall accountability for the finances of their directorate and must ensure there are proper systems for financial administration and control on place.
- (A9) shall ensure that accounting systems and procedures within their Directorates incorporate adequate controls to safeguard against loss and fraud.
- (B5) are accountable for ensuring effective budgetary control within their directorates.

**2. Delegations**

Unless required otherwise by law, the Constitution, the Council and Mayoral Schemes of Delegation or this Scheme of Delegation, the Executive Director for CYP nominates the following post holders to make the decisions set out in the table below as listed. Please note, throughout this document "Executive Director" refers specifically to the Executive Director for Children and Young People (CYP) unless specified otherwise. Where a Director is referred to, it is the relevant and appropriate Director of Service that the authority is delegated to.

**Mayoral Areas of Delegation**

| **Area of delegation** | **Officer with delegated authority** |
|---|---|
| Day to day control and regulation of the directorate's finances. | Executive Director |
| Strategic oversight and monitoring of the overall directorate budget. | Director of Financial Services in consultation with the Group Finance Manager |
| Day to day control and monitoring of individual service budgets. The exception is care packages for individual service users which are subject to separate delegated arrangements set out below. | Budget holders |
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| **Budget Virements**<br><br>A Budget Virement is a transfer of a budget from the purposes for which Council originally voted in setting the Budget and Council Tax to another purpose (e.g. from one service to another), or another use (e.g. from pay to non-pay or vice versa). | |
| **Revenue Budget Virements** | |
| **Within the Directorate** | |
| Within the same Service area<br><br>a) Up to £20k | Group Finance Manager in consultation with the Director of Service |
| b) Up to £100k | Director of Financial Services or Director of Corporate Resources in consultation with Director of Service |
| c) Up to £500k | Executive Director |
| Across Service areas<br><br>a) Up to £100k | Director of Financial Services or Director of Corporate Resources in consultation with the affected Director of Service |
| b) Up to £500k | Executive Director |
| **Cross Directorate** | |
| a) Up to £100k | Director of Financial Services or Director of Corporate Resources in consultation with the affected Director of Service |
| b) Up to £500k | Executive Director (via Executive Management Team) |
| All Revenue Budget Virements above these limits are reserved to Members | |
| **1 Capital Budget Virements (on the Council's Capital Programme)** | |
| Up to £500k | Executive Director |

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| Over £500k<br><br>**Budget Adjustments**<br><br>A Budget Adjustment is a transfer of a budget from one cost centre to another whilst retaining the original purpose for which the budget was approved.<br><br>Within the same Service Area in the same Directorate<br><br>Across Service Areas in the same Directorate<br><br>Across Directorates<br><br>Budget transfers relating to technical accounting adjustments<br><br>Any items that fall outside the above definitions must be referred to the Director of Financial Services or the Director of Corporate Resources for further clarification<br><br>**Loans**<br><br>Approval of any loan for Treasury Management purposes and the Employee Loan Scheme<br>(all other loan decisions are reserved to Members) | Members<br><br><br><br><br>Group Finance Manager<br><br>Group Finance Manager in consultation with the affected Directors of Service<br><br>Executive Directors of both Directorates<br><br>Director of Corporate Resources or Director of Financial Services<br><br><br><br><br>Director of Corporate Resources |
| **CONTRACTS**<br><br>Note:<br>• Certain decisions relating to contracts are reserved to Members: see the Mayoral Scheme of Delegation Section R.<br><br>• The Contract Procedure Rules in the Constitution set out what the 'Categories' of contract are: see Rule 5.1 of Contract Procedure Rules. | |
| (Note that some decisions are reserved to Members; and other decisions may be affected by the requirements set out at 2 – 15 below)<br><br>1. Decisions relating to contracts<br>a. where the estimated expenditure is £50,000 or less;<br><br>b. where the estimated expenditure is over £50,000. | <br><br><br>Director of Service<br><br><br>Executive Director or nominee in accordance with their delegated financial limits |
| | |

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| 2. Contract Pre-tender authorisations (Contract Procedure Rules 3.1)<br>(Note: see reservations to Members) | Executive Director or nominee in accordance with their delegated financial limits |
| 3. Contract Competitive Quotes and Tenders (Contract Procedure Rules 5.1)<br>Decisions about 'Permitted method of competition':<br><br>a) All decisions other than those set out in b)<br><br>b) Decisions about Category A or Category B contracts where the proposal is for use of a Framework Agreement or use of a Dynamic Purchasing System (either of which must have been established by the Council or a public sector body or bodies, be competitively tendered and be EU compliant) | Executive Director or nominee in accordance with their delegated financial limits<br><br>Executive Director for Corporate Services upon the advice of the Director of Law. |
| 4. Two Stage Procurement Process (Contract Procedure Rules 5.8)<br>Decisions about agreement on the shortlist following expressions of interest | Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 5. Liquidated and Ascertained Damages (Contract Procedure Rules 9.3)<br>Decisions that it is not appropriate to provide for liquidated damages | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 6. Security and Guarantee (Contract Procedure Rules 9.4)<br>Decisions about the sufficiency of security and/or guarantee for the due performance of a contract In relation to contracts with a value above £50,000 | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 7. Submission of Tenders (Contract Procedure Rules 10.1)<br>Where the proposal is to take a different approach to that set out in Table 2 of Contract Procedure Rules | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 8. Late Submissions, Errors etc. (Contract Procedure Rules 10.5)<br><br>a) Decisions to accept late tender or quotation (Contract Procedure Rules 10.5.1) | Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law<br><br>Executive Director for Corporate Services or nominee in accordance |

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| b) Decisions to allow alteration of tenders (Contract Procedure Rules 10.5.3) | with their delegated financial limits upon the advice of the Director of Law. |
| 9. Contract Award – Energy and Water Contracts (Contract Procedure Rules 13)<br>Decisions about award of those Energy and Water Contracts which are not reserved to Members | Executive Director for Corporate Services |
| 10. Contract Award – Contracts Exceeding the Written Estimate (Contract Procedure Rules 13, and see Rule 4.1)<br>(Note: see reservations to Members)<br>Decisions about award of contracts where the difference between 'Expenditure per contract' and the original 'Estimated expenditure per contract' is greater than the levels set out below:<br>• Goods or Services: difference is more than 10% and less than 20% subject to a maximum of £100,000;<br>• Works: difference is more than 10% and less than 25% (subject to a maximum of £250,000). | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 11. Insurance arrangements<br>Decisions about insurance arrangements where either:<br>• The value of the premium payable does not exceed £3 million or<br>• The insurance premium does not exceed the rate for the previous year by more than 10% | Executive Director for Corporate Services |
| 12. Execution of Contract (Contract Procedure Rules 14.3)<br>(Note: see Contract Procedure Rules)<br>Execution of contracts where the cumulative value is £200,000 or below but above £50,000 | Executive Director or nominee in accordance with their delegated financial limits |
| 13. Commencement of Contract (Contract Procedure Rules 15.2)<br>Works contracts only: Decisions about use of a letter of intent | Executive Director for Corporate Services or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 14. Permitted Extension or Variation of Contracts or Framework Agreements (Contract Procedure Rules 17.7)<br>(Note: see reservations to Members)<br>Decisions about Permitted Extensions or Variations of Contracts or Framework Agreements in relation to expenditure at the levels set out below, whichever is the greater of -<br>• Where the value of an extension or variation is not more than 10% of the original contract, the value of that extension or variation; or | Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |

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| • The value of the extension or variation is £500,000 or less (Goods or Services) or £1,000,000 or less (Works). | |
| 15. Exemption from the Contract Procedure Rules (Contract Procedure Rules 13 and 18)<br>(Note: see reservations to Members) Decisions about exemption from the requirements of Contract Procedure Rules where there is no value involved or where the value is £500,000 or less (Goods or Services) or £1,000,000 or less (Works) | Executive Director for Corporate Services upon the advice of the Director of Law. |
| **Grants and Assistance to Voluntary Organisations**<br><br>Unless the law, the Constitution, or the Mayoral Schemes of Delegation requires otherwise, the following executive powers are delegated to the Chief Executive and to each Executive Director in relation to grants and assistance to voluntary organisations:-<br><br>(a) the power to make a grant or to give other assistance (excluding loans) to a voluntary organisation within their area of responsibility, where the total value of the assistance in money or money's worth does not exceed £10,000<br><br>(b) the power to reduce or withdraw a grant or other assistance, and the power to award a grant or give other assistance to a voluntary organisation (irrespective of the value of the grant or assistance) within their area of responsibility if the value of the change in grant is no more than 10% or £5,000, (whichever is the greater), than the grant awarded in the previous year.<br><br>**All grants considered to be sensitive or controversial to be included in the forward plan** | <br><br><br><br><br><br><br>Executive Director<br><br><br><br><br>Executive Director |
| **Application for External Funding**<br><u>Revenue and Capital</u><br><br>Approval of any application for external funding which is below £1 million with no match funding and/or revenue implications, or<br><br>a) Is below £1 million, and<br><br>b) would require match funding from the Council of below £250,000, and<br><br>c) would have revenue implications of below £250,000 per annum | <br><br><br>Executive Director or in his/her absence Director of Corporate Resources or Director of Financial Services (in consultation with the Capital Programme Delivery Board for capital funding). |

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| Note: All other applications must be approved by Members.<br><br><u>Capital Only</u><br><br>Before submitting a report to Mayor and Cabinet to seek approval to bid for funding, an initial agreement to proceed **must** be sought from the Capital Programme Delivery Board. | |
| **Subscriptions -** affiliations to and payment of subscriptions to outside bodies up to a maximum of £25,000 per annum.<br><br>Within own area of responsibility up to £5k<br><br>Above £5k up to £25k | <br><br><br>Director of Service<br><br>Executive Director (or in their absence the Director of Financial Services or Director of Corporate Resources) |
| **Bad Debt Write Off**<br><br>**Recommendation** of write-off of bad debts (excluding housing rents) to the Executive Director for Corporate Services (up to £50,000) or the Mayor (£50,000 and over) | <br><br>Executive Director in consultation with Director of Financial Services |
| **Write off and/or disposal of non-land and non-building assets**<br><br>Write off up to £20,000<br><br>**(must be recorded in the directorate inventory log as stated in the Financial regulations)** | <br><br>Director of Service in consultation with Director of Financial Services or Director of Corporate Resources |
| **Directorate Employment Matters**<br>Employment matters relating to the Directorate, namely recruitment, appointments, disciplinary, and grievance | <br>Director of Service |

**Directorate Specific**

| Area | Matters to be delegated to Service Unit Manager (SUM) or other named postholder | Matters to be delegated but reserved to Director of Service (or equivalent) | Matters to be reserved to the Executive Director | Matters to be reserved to Members |
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| Educational Psychologists & Learning Support | Principal Educational Psychologist to exercise all statutory powers to identify and meet children's special educational needs under the Education Act 1996 and all Code of Practice stages within the prescribed timescales. | | | |
| Governors' Support | SGM School Services to exercise powers including governor elections, information packs for governors, governor training programme, resolutions from Annual Parents' meetings, recruitment of governors, clerking provision, servicing of governor fora etc. | | | |
| Special Educational Needs | SGM Children with Complex Needs to determine additional support provided through a formal assessment.<br><br>SGM Children with Complex Needs to determine provision of free transport for eligible pupils, subject to notifying Assistant Director of Education Services of any decisions made at SEN Tribunals which are contrary to LA policy. | Director of Education Services to agree contracts between the LA and Independent/non-maintained schools. | | |
| Educational Access | Team Manager, Schools Admissions and Appeals to implement policies on admissions matters including: | SGM Access, Inclusion and Participation to be responsible for: | | |

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| | • preparation of statements setting out arrangements on limits to infant class sizes<br>• carrying out of statutory consultation on admission policies<br>• publication of information on admissions arrangements<br>• arrangements for admissions and exclusions appeals. | • attendance of children of compulsory school age<br>• arrangements for out of school provision<br>• exceptional admissions decisions e.g. children of teachers and those with social/medical needs<br>• pre-exclusion intervention<br>• monitoring and improving educational outcomes for children looked after<br>• enforcement of child employment legislation<br><br>Director of Education Services to direct schools to admit specific pupils when they have a vacancy. | | |
| **Employment Matters (Schools)**<br><br>Probationary appeals<br><br>Disciplinary and capability appeals<br><br>Suspensions | | Director of Service to hear probationary appeals for employees in their division.<br><br>Directors of Service hear disciplinary and capability appeals for employees in their division.<br><br>Directors of Service to approve suspension from duty of any employees within their divisions, advised by HR Business Manager Schools Team. | Executive Director to hear probationary appeals for Directors of Service.<br><br>Executive Director to hear disciplinary and capability appeals for Directors of Service<br><br>Suspension of Directors of Service (or equivalent salary level) or any staff reporting directly to them, as advised by head of Corporate personnel. | |

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| Reorganisations | SGMS to prepare proposals for consultation | Directors of Service to approve proposals and take to DMT. | | |
| Settling Employment Tribunal claims out of court. | HR Business Manager Schools Team. to settle claims to £5,000 | Directors of Corporate Resources to settle claims over £5,000 advised by legal and HR Business Manager Schools Team. | All cases where costs to be met by DSG. | |
| Resignation/Retirement of Headteachers | | Director of Education Services and Director of Corporate Resources to approve packages in excess of 6 months gross pay in consultation with Chair of Governors. | | |
| **Services for Children's Social Care** | | | | |
| Placements in Secure Accommodation | | Director of Children's Services | | |
| Placements in residential or foster care | | Service Group Manager / Care Planning Panel | | |
| <u>Authorisation of Children Act (1989) foster carer enhancements</u> | | | | |
| Authorisation levels for Children Act (1989) Sect .17 Children in Need payments: | up to £50 per payment up to a maximum of £250 per family per annum<br>– Team Leader | up to £5,000 per payment up to a maximum of £15,000 per family per annum.<br>– Service Group Manager | | |
| | up to £500 per payment up to a maximum of £2,500 per family per | up to £15,000 per payment up to a maximum of £50,000 p.a. | | |

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| Authorisation levels for Children Act (1989) s.23 payments to LAC & s.24 Leaving Care payments**:** | annum - Service Group Manager<br><br>up to £50 per payment<br>– Team Leaders<br><br>up to £1,000 per payment<br>- Service Group Manager | – Director of Service<br><br>up to £5,000 per payment<br>- Group Managers<br><br>over £5,000 per payment<br>– Director of Service | | |

## 3. General

All non-executive functions not reserved to Members, shall be delegated to the Chief Executive or such officer as he or she shall nominate in writing, unless there is a statutory requirement that the function be carried out by another officer, for example the personal statutory responsibilities of the Director of Children's Social Care.

## 4. General Guidance

Unless the law, the Constitution or this Scheme of Delegation requires otherwise, the following powers are delegated to the Executive Director for CYP:-

a) Authority to exercise the Council's executive functions in relation to education, including but not limited to, those contained in the Education Act 1996 and School Standards and Framework Act 1998, Learning & Skills Act 2000 and all other relevant legislation in force from time to time, with the exception of the matters listed in Table 2 above.
b) The exercise of all executive functions relating to the provision of opportunities for education, training and learning outside the formal school environment, including pre-school.
c) All executive decisions relating to the internal management of the Directorate of CYP which are not otherwise reserved to members on any ground.

## 5. Exemptions

The Mayoral Schemes of Delegation states that authority to exercise executive functions and make executive decisions is delegated to officers, except where there is an exemption to the contrary. Where such an exemption exists, the general rule is that those decisions will be made by the Mayor individually, in consultation with his colleagues in the Executive. Officers should refer to the Mayoral Schemes of Delegation; to Section I and Table 1 for general exemptions, and to Section J and Table 2 for exemptions specific to the CYP Directorate. Exemptions which may override delegated authority to officers to make decisions, as detailed in Section 2 of the CYP Directorate of Delegation, are repeated below.

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| 1. | Any matter in which the officer who would otherwise have delegated authority to act is aware that a councillor (or a person, company or organisation with which the councillor is involved) has a personal interest under the Council's Member Code of Conduct. |
| 2. | Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest. |
| 3. | Any matter which in the opinion of the Executive Director for CYP, the Chief Executive or the Director of Law because of the scale of the decision, its potential impact, the sensitivity of the decision or for any other reason would more appropriately be dealt with by members. |

Signed

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Sara Williams Date
Executive Director for CYP

## The Directorate for Community Services Scheme of Delegation

### 1. Purpose

1.1. The Community Services Directorate Scheme of Delegation sets out the post titles of those officers whom the Executive Director for Community Services has nominated to take decisions on areas from the Council and Mayoral Schemes of Delegation where responsibility has been delegated to the Executive Director for Community Services. The Executive Director for Corporate Services delegates the financial matters listed in this scheme to the Executive Director for Community Services unless otherwise stated.

1.2. This Scheme of Delegation will remain in force until it is amended or revoked by the Executive Director for Community Services or via changes to the Council and Mayoral Schemes of Delegation.

1.3. The purpose of the Community Services Directorate scheme of delegation is to be clear about which officer has been nominated to make delegated decisions within this directorate.

1.4. The scheme is subject to the Council's Constitution, the Council and Mayoral Schemes of Delegation, Financial Regulations and Standing Orders.

1.5. Directors will continue to be responsible for running their own services and taking decisions in line with their service requirements, unless specifically required in this scheme of delegation or determined by the Executive Director for Community Services to seek other agreement.

1.6. Some decisions in this scheme of delegation will still be required to be taken directly by the Executive Director for Community Services or, in their absence, they will nominate an appropriate officer/s to assume these responsibilities but, unless otherwise notified, the following nominations will apply:

- Directorate financial decisions – Director of Financial Services
- Legal Decisions – Director of Law or Deputy Monitoring Officer/Principal Lawyers as appropriately nominated by the Director of Law
- Acts under authority delegated to the Executive Director for Community Services in his/her absence – Director of Service with specifically delegated authority otherwise Director of Financial Services
- Contract matters –Director of Corporate Resources

1.7. All matters pertaining to Corporate Resources have been temporarily delegated to the Director of Corporate Resources, acting as the Chief Finance Officer. The Director of Financial Services is temporarily acting as Deputy Section 151 officer.

1.8. Where the word 'nominee' is used the nomination is to be made by the post holder referred to, in writing, and a record of all such nominations within the directorate must be kept in the directorate and be available for inspection at any time.

1.9. Where power is delegated to the Executive Director, and officers are nominated by him/her under this Scheme of Delegation, the power will be exercised in a manner that decisions are not made in isolation and that the decision maker takes into

account the broader corporate implications for the Council. If officers take key decisions, as defined in Article 16 of the Constitution of the London Borough of Lewisham, the law requires them to comply with prevailing access to information regulations. In addition, for key executive decisions which are to be taken by officers individually, the Chief Executive may, from time to time, put in place a procedure to ensure that officer decision making is exercised in a manner which reflects corporate considerations. Officers may only exercise delegated authority in relation to key executive decisions by complying with the procedures as stated in the Constitution.

1.10. Please note that the DEP/CEP process for staffing spend has been replaced by the Corporate Permission to Recruit (CPR)

1.11. For non-staffing spend, the financial regulations (section K of the constitution) conforms that Executive Directors

- (A8) have overall accountability for the finances of their directorate and must ensure there are proper systems for financial administration and control on place.
- (A9) shall ensure that accounting systems and procedures within their Directorates incorporate adequate controls to safeguard against loss and fraud.
- (B5) are accountable for ensuring effective budgetary control within their directorates.

## 2. Delegation

2.1. Unless required otherwise by the law, the Constitution, the Council and Mayoral Schemes of Delegation or this Scheme of Delegation, the Executive Director for Community Services nominates the following post holders to make the decisions set out in the table below as listed. Please note, throughout this document "Executive Director" refers specifically to the Executive Director for Community Services unless specified otherwise. Where a Director is referred to, it is the relevant and appropriate Director of Service that the authority is delegated to.

**Mayoral Areas of Delegation**

| Area of delegation | Officer with delegated authority |
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| Day to day control and regulation of the directorate's finances. | Executive Director |
| Strategic oversight and monitoring of the overall directorate budget. | Director of Financial Services in consultation with the Group Finance Manager |
| Day to day control and monitoring of individual service budgets. The exception is care packages for individual service users which are subject to separate delegated arrangements set out below. | Budget holders |

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| **Budget Virements**<br><br>A Budget Virement is a transfer of a budget from the purposes for which Council originally voted in setting the Budget and Council Tax to another purpose (e.g. from one service to another), or another use (e.g. from pay to non-pay or vice versa). | |
| **Revenue Budget Virements** | |
| **Within the Directorate** | |
| Within the same Service area | |
| a) Up to £20k | Group Finance Manager in consultation with the Director of Service |
| b) Up to £100k | Director of Financial Services or Director of Corporate Resources in consultation with Director of Service |
| c) Up to £500k | Executive Director in consultation with Director of Financial Services or Director of Corporate Resources |
| **Across Service areas**<br>a) Up to £100k | Director of Financial Services or Director of Corporate Resources in consultation with Director of Service |
| b) Up to £500k | Executive Director in consultation with Director of Financial Services or Director of Corporate Resources |
| **Cross Directorate** | |
| a) Up to £100k | Director of Financial Services or Director of Corporate Resources in consultation with the affected Executive Directors |

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| b) Up to £500k | Executive Director for Corporate Services (via Executive Management Team) |
| All Revenue Budget Virements above these limits are reserved to Members | |
| **Capital Budget Virements (on the Council's Capital Programme)** | |
| Up to £500k | Executive Director for Corporate Services |
| Over £500k | Members |
| **Budget Adjustments** | |
| A Budget Adjustment is a transfer of a budget from one cost centre to another whilst retaining the original purpose for which the budget was approved. | |
| Within the same Service Area in the same Directorate | Group Finance Manager |
| Across Service Areas in the same Directorate | Group Finance Manager in consultation with the affected Directors of Service |
| Across Directorates | Executive Directors of both Directorates |
| Budget transfers relating to technical accounting adjustments | Director of Financial Services or Director of Corporate Resources |
| Any items that fall outside the above definitions must be referred to the Director of Financial Services or the Director of Corporate Resources for further clarification | |
| **Loans** | |
| Approval of any loan for Treasury Management purposes and the Employee Loan Scheme<br>(all other loan decisions are reserved to Members) | Executive Director for Corporate Services |

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| **CONTRACTS**<br><br>Note:<br>• Certain decisions relating to contracts are reserved to Members: see the Mayoral Scheme of Delegation Section R.<br><br>• The Contract Procedure Rules in the Constitution set out what the 'Categories' of contract are: see Rule 5.1 of Contract Procedure Rules. | |
| (Note that some decisions are reserved to Members; and other decisions may be affected by the requirements set out at 2 – 15 below)<br><br>1. Decisions relating to contracts<br><br>a) where the estimated expenditure is £50,000 or less;<br>b) where the estimated expenditure is over £50,000. | Director of Service<br><br>Executive Director or nominee in accordance with their delegated financial limits |
| 2. Contract Pre-tender authorisations (Contract Procedure Rules 3.1)<br>(Note: see reservations to Members) | Executive Director or nominee in accordance with their delegated financial limits |
| 3. Contract Competitive Quotes and Tenders (Contract Procedure Rules 5.1)<br>Decisions about 'Permitted method of competition':<br><br>a) All decisions other than those set out in b)<br><br>b) Decisions about Category A or Category B contracts where the proposal is for use of a Framework Agreement or use of a Dynamic Purchasing System (either of which must have been established by the Council or a public sector body or bodies, be competitively tendered and be EU compliant) | Executive Director or nominee in accordance with their delegated financial limits<br><br>Executive Director for Corporate Services upon the advice of the Director of Law. |
| 4. Two Stage Procurement Process (Contract Procedure Rules 5.8)<br>Decisions about agreement on the shortlist following expressions of interest | Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |

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| 5. Liquidated and Ascertained Damages (Contract Procedure Rules 9.3)<br>Decisions that it is not appropriate to provide for liquidated damages | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 6. Security and Guarantee (Contract Procedure Rules 9.4)<br>Decisions about the sufficiency of security and/or guarantee for the due performance of a contract In relation to contracts with a value above £50,000 | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 7. Submission of Tenders (Contract Procedure Rules 10.1)<br>Where the proposal is to take a different approach to that set out in Table 2 of Contract Procedure Rules | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 8. Late Submissions, Errors etc. (Contract Procedure Rules 10.5)<br><br>a) Decisions to accept late tender or quotation (Contract Procedure Rules 10.5.1)<br><br>b) Decisions to allow alteration of tenders (Contract Procedure Rules 10.5.3) | <br><br>Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law<br><br>Executive Director for Corporate Services or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 9. Contract Award – Energy and Water Contracts (Contract Procedure Rules 13)<br>Decisions about award of those Energy and Water Contracts which are not reserved to Members | Executive Director for Corporate Services |
| 10. Contract Award – Contracts Exceeding the Written Estimate (Contract Procedure Rules 13, and see Rule 4.1)<br>(Note: see reservations to Members)<br>Decisions about award of contracts where the difference between 'Expenditure per contract' and the original 'Estimated expenditure per contract' is greater than the levels set out below:<br>• Goods or Services: difference is more than 10% and less than 20% subject to a maximum of £100,000; | Executive Director for Corporate Services upon the advice of the Director of Law. |

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| • Works: difference is more than 10% and less than 25% (subject to a maximum of £250,000). | |
| 11. Insurance arrangements<br>Decisions about insurance arrangements where either:<br>• The value of the premium payable does not exceed £3 million or<br>• The insurance premium does not exceed the rate for the previous year by more than 10% | Executive Director for Corporate Services |
| 12. Execution of Contract (Contract Procedure Rules 14.3)<br>(Note: see Contract Procedure Rules)<br>Execution of contracts where the cumulative value is £200,000 or below but above £50,000 | Executive Director or nominee in accordance with their delegated financial limits |
| 13. Commencement of Contract (Contract Procedure Rules 15.2)<br>Works contracts only: Decisions about use of a letter of intent | Executive Director for Corporate Services or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 14. Permitted Extension or Variation of Contracts or Framework Agreements (Contract Procedure Rules 17.7)<br>(Note: see reservations to Members)<br>Decisions about Permitted Extensions or Variations of Contracts or Framework Agreements in relation to expenditure at the levels set out below, whichever is the greater of -<br>• Where the value of an extension or variation is not more than 10% of the original contract, the value of that extension or variation; or<br>• The value of the extension or variation is £500,000 or less (Goods or Services) or £1,000,000 or less (Works). | Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 15. Exemption from the Contract Procedure Rules (Contract Procedure Rules 13 and 18)<br>(Note: see reservations to Members)<br>Decisions about exemption from the requirements of Contract Procedure Rules where there is no value involved or where the value is £500,000 or less (Goods or Services) or £1,000,000 or less (Works) | Executive Director for Corporate Services upon the advice of the Director of Law. |
| **Grants and Assistance to Voluntary Organisations** | |

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| Unless the law, the Constitution, or the Mayoral Schemes of Delegation requires otherwise, the following executive powers are delegated to the Chief Executive and to each Executive Director in relation to grants and assistance to voluntary organisations:-<br><br>(a) the power to make a grant or to give other assistance (excluding loans) to a voluntary organisation within their area of responsibility, where the total value of the assistance in money or moneys worth does not exceed £10,000<br><br>(b) the power to reduce or withdraw a grant or other assistance, and the power to award a grant or give other assistance to a voluntary organisation (irrespective of the value of the grant or assistance)<br>within their area of responsibility if the value of the change in grant is no more than 10% or £5,000, (whichever is the greater), than the grant awarded in the previous year.<br><br>**All grants considered to be sensitive or controversial to be included in the forward plan** | Executive Director<br><br>Executive Director |
| **Application for External Funding**<br><br><u>Revenue and Capital</u><br>Approval of any application for external funding which is below £1 million with no match funding and/or revenue implications, or<br><br>a) Is below £1 million, and<br><br>b) would require match funding from the Council of below £250,000, and<br><br>c) would have revenue implications of below £250,000 per annum<br><br>Note: All other applications must be approved by Members.<br><br><u>Capital Only</u><br>Before submitting a report to Mayor and Cabinet to seek approval to bid for funding, an initial agreement to proceed **must** be sought from the Regeneration and Capital Programme Board. | Executive Director or in his/her absence, Director of Corporate Resources or Director of Financial Services in consultation with the Regeneration and Capital Programme Delivery Board. |
| **Subscriptions -** affiliations to and payment of subscriptions to outside bodies up to a maximum of £25,000 per annum. | |

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| Within own area of responsibility up to £5k<br><br>Above £5k up to £25k | Directors of Service<br><br>Executive Director (or in their absence the Director of Financial Services or Director of Corporate Resources) |
| **Bad Debt Write Off**<br><br>**Recommendation** of write-off of bad debts (excluding housing rents) to the Executive Director of Corporate Resources (up to £50,000) or the Mayor (£50,000 and over) | Executive Director in consultation with the Directors of Financial Services and Corporate Resources |
| **Write off of non-land and non-building assets**<br><br>Write off up to £20,000<br>(must be recorded in the directorate inventory log as stated in Financial Regulations) | Directors of Service in consultation with the Group Finance Manager |
| **Directorate Employment Matters**<br><br>Employment matters relating to the Directorate, namely recruitment, appointments, disciplinary, and grievance | Directors of Service |

**Directorate Specific**

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| **Spot Contracts for Care for Individual Clients** | Note: see above for general delegations about contract matters' |
| Approval of RAS | Executive Director Community Services |
| All new placements and packages within RAS Indicative Allocation Value | Operational Manager |
| Variations where new value is within RAS Indicative Allocation | Operational Manager |
| New and varies placements where value is greater than RAS Indicative Allocation | Panel chaired by Director of Service or Service Manager<br><br>Operational Manager |

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| Placements or packages outside working hours – up to 7 days only. | |
| **Community Occupational Therapy Services** | *Note: see above for general delegations about contract matters'* |
| Adaptations or equipment from the standard list costing up to £500 | OT |
| Specialist equipment costing up to £500 not on the standard list | Senior OT |
| Specialist or standard equipment costing between £500 - £1,000 | Team leader |
| Adaptations costing between £500 - £1,000 | Team leader |
| Major housing adaptations costing more than £1,000 | OT team leader in consultation with private sector housing/ strategic housing Manager |
| Equipment costing more than £1,000 | Service Manager |
| **Services for adults with mental health problems** | *Note: see above for general delegations about contract matters'* |
| Residential placements or care packages costing more than £200 per week | Joint Community Mental Health Services Manager |
| Placements or care packages costing less than £200 per week | Community Mental Health Team Manager |
| Changes to care packages or placement following a review – same thresholds as above. | Community Mental Health Team Manager |
| **Integrated service provision** | |
| Decisions relating to the integration of services under the provisions of the Health Act 1999 or other management arrangements where the value of the Council's contribution does not exceed £500k per annum. | Executive Director |

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| **Changes to service delivery**<br><br>Decisions relating to the introduction of a new service or the cessation of a service where the value of the service concerned is or would be if introduced less than £500k per annum. | Director of Service |
| **Adult Social Care**<br><br>Consideration of appeals against financial assessments<br><br>Minor variations in charging policy including inflation of charges and disregards | Director of Service<br><br>Executive Director |
| **Fees and Charges**<br><br>**Library Service**<br>Reservations<br>Photocopying<br>Faxes<br>Local History postcards and books<br>Withdrawn stock<br>Open learning Centre: hire of pc.<br><br>Hire of Halls/Rooms in Libraries:<br><br>Applying charging policy<br><br>Deviation from, or change to existing policy for charges<br><br>Library fines (overdue items, lost items, replacement tickets)<br><br>**Adult Social Care Buildings**<br><br>Applying charging policy for use of day centres<br><br>Deviation from, or change to existing policy for charges | Library Service Manager<br><br>Director of Service<br><br>Mayor and Cabinet<br><br>Mayor and Cabinet<br><br>Service manager in consultation with Director of Adult Social Care<br><br>Mayor and Cabinet |
| **Community Centre Charges**<br><br>Apply charging policy in respect of:<br><br>Facilities used by the voluntary sector | Director of Culture and Community Development in consultation with the Director of Regeneration & Place |

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| Deviation from, or change to existing policy for charges. | Mayor and Cabinet |
| **Office Premises**<br><br>Rent subsidies up to £10,000 to voluntary organisations in the following office premises: | Director of Culture and Community Development in consultation with the Director of Regeneration & Place |
| Community Use Agreements<br>(e.g. Sports Lottery)<br><br>Broadway Theatre : Setting ticket prices<br><br>: Policy for hire charges | Cultural Development & Community Resources Manager<br><br>Theatre Manager<br><br>Mayor and Cabinet |
| **Leisure Centres** | Charges to continue to be dealt with by reference to the terms of agreement (previously approved by M&C). Any changes not in line with terms of agreement would therefore be submitted to members as a variation to the agreement. |
| **Fees & Charges for Adult Learning Lewisham (ALL)**<br><br>Any deviation from or change to existing policy for charges | ALL Service Managers to apply charges within the charging policy<br><br>Mayor and Cabinet |
| **Rates of Pay**<br><br>Setting casual/seasonal rates of pay.<br>EG Libraries, Sport and Active recreation. | Service manager in consultation with Director of Service |
| **Environmental Matters**<br><br>Trading Standards, Environmental Health, Environmental Enforcement Public Health and Nuisance, Food Safety and Health and Safety. | Director of Public Protection and Safety |
| **Area of delegation** | **Officer with delegated authority** |

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| **Non-executive Licensing matters from Licensing (Supplementary)Committee:**<br><br>Authority to exercise all of the Council's licensing and registration functions under all existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the Licensing Committee and save for any licensing functions under the Licensing Act 2003.<br>Nothing in this schedule prevents the Licensing (Supplementary) Committee exercising functions within their terms of reference. | Service Group Manager – Private Sector Housing and Regulatory Services |

**Licensing Matters Delegated by the Licensing Committee**

To the Executive Director for Community Services or such officer as he/she may nominate authority to exercise all of the Council's licensing functions under the Licensing Act 2003, as amended from time to time, save for those matters reserved to the Licensing Committee or sub-committees.
The functions to be reserved to the Licensing Committee, sub-committees and those to be delegated to officers are as follows:

| Matter to be dealt with | Licensing Committee | Licensing Sub-Committee | Officers |
|---|---|---|---|
| Application for Personal Licence | Any matter which the Director of Regulatory Services considers to be more appropriate for consideration by the main Committee | If a police objection is made | If no objection Made – Licensing Manager |
| Application for Premises Licence / Club Premises Certificate | Ditto | If a relevant representation made | If no relevant representation made – Licensing Manager |
| Application for Provisional Statement | Ditto | If a relevant representation made | If no relevant representation made – Licensing Manager |
| Application to vary Premises Licence / Club Premises | Ditto | If a relevant representation made | If no relevant representation made – Licensing Manager |
| Application to vary Designated Premises Supervisor | Ditto | If a Police objection is made | All other cases – Licensing Manager |

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| Request to be removed as Designated Premises Supervisor | Ditto | | All other cases – Licensing Manager |
| Application for transfer of Premises Licence | Ditto | If a Police objection is made | All other cases – Licensing Manager |
| Application for Interim Authorities | Ditto | If a Police objection is made | All other cases – Licensing Manager |
| Decision on whether a complaint is irrelevant frivolous, vexatious etc. | Ditto | | All other cases – Licensing Manager |

**Please refer to the Council Scheme of Delegation for all other matters reserved to the Licensing Committee and Licensing Sub-Committee.**

**3. General**

All non-executive functions not reserved to Members, shall be delegated to the Chief Executive or such officer as he or she shall nominate in writing, unless there is a statutory requirement that the function be carried out by another officer, for example the personal statutory responsibilities of the Director of Children's Services.

**4. Exemptions**

The Mayoral Schemes of Delegation states that authority to exercise executive functions and make executive decisions is delegated to officers, except where there is an exemption to the contrary. Where such an exemption exists, the general rule is that those decisions will be made by the Mayor individually, in consultation with his colleagues in the Executive. Officers should refer to the Mayoral Schemes of Delegation; to Section I and Table 1 for general exemptions and to Section K and Table 3 for exemptions specific to Community Services. Exemptions which may override delegated authority to officers to make decisions, as detailed in Section 2 of the Community Services Scheme of Delegation, are repeated below.

1. Any matter in which the officer who would otherwise have delegated authority to act is aware that a councillor (or a person, company or organisation with which the councillor is involved) has a personal interest under the Council's Member Code of Conduct.

2. Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest.

3. Any matter which in the opinion of the Executive Director for Community Services, the Chief Executive or the Director of Law because of the scale of the decision, its potential impact, the sensitivity of the decision or for any other reason would more appropriately be dealt with by members.

Signed

_____ _____

Thomas Brown
Executive Director for Community Services Date:

The Directorate for Housing, Regeneration & Environment Scheme of Delegation

## 1. Purpose

1.1. The Housing, Regeneration & Environment Directorate Scheme of Delegation sets out the post titles of those officers whom the Executive Director for Housing, Environment & Regeneration 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 Housing, Regeneration & Environment. The Executive Director for Corporate Services delegates the financial matters listed in this scheme to the Executive Director for Housing, Regeneration & Environment unless otherwise stated.

1.2. This Scheme of Delegation will remain in force until it is amended or revoked by the Executive Director for Housing, Regeneration & Environment or via changes to the Council and Mayoral Schemes of Delegation.

1.3. The purpose of the Housing, Environment & Regeneration Directorate scheme of delegation is to be clear about which officer has been nominated to make delegated decisions within this directorate.

1.4. The scheme is subject to the Council's Constitution, the Council and Mayoral Schemes of Delegation, Financial Regulations and Standing Orders.

1.5. Directors will continue to be responsible for running their own services and taking decisions in line with their service requirements, unless specifically required in this scheme of delegation or determined by the Executive Director for Housing, Regeneration & Environment to seek other agreement.

1.6. Some decisions in this scheme of delegation will still be required to be taken directly by the Executive Director for Housing, Regeneration & Environment or, in their absence, they will nominate an appropriate officer/s to assume these responsibilities but, unless otherwise notified, the following nominations will apply:

- Directorate financial decisions – Director of Financial Services
- Legal Decisions – Director of Law or Deputy Monitoring Officer/Principal Lawyers as appropriately nominated by the Director of Law
- Acts under authority delegated to the Executive Director for Housing, Regeneration & Environment in his/her absence - Director of Service with specifically delegated authority otherwise Director of Financial Services
- Contract matters – Director of Corporate Resources
- Planning – Director of Planning in relation to all Town & Country planning matters
- Property & Programme matters - Director of Regeneration and Place

1.7. All matters pertaining to Corporate Services have been temporarily delegated to the Director of Corporate Resources, acting as the Chief Finance Officer. The Director of Financial Services is temporarily acting as Deputy Section 151 officer.

1.8. Where the word 'nominee' is used the nomination is to be made by the post holder referred to, in writing, and a record of all such nominations within the directorate must be kept in the directorate and be available for inspection at any time.

1.9. Where power is delegated to the Executive Director, and officers are nominated by him/her under this Scheme of Delegation, the power will be exercised in a manner that decisions are not made in isolation and that the decision-maker takes into account the broader corporate implications for the Council. If officers take key decisions, as defined in Article 16 of the Constitution of the London Borough of Lewisham, the law requires them to comply with prevailing access to information regulations. In addition, for key executive decisions which are to be taken by officers individually, the Chief Executive may, from time to time, put in place a procedure to ensure that officer decision making is exercised in a manner which reflects corporate considerations. Officers may only exercise delegated authority in relation to key executive decisions by complying with the procedures as stated in the Constitution.

1.10. Please note that the DEP/CEP process for staffing spend has been replaced by the Corporate Permission to Recruit (CPR)

1.11. For non-staffing spend, the financial regulations (section K of the constitution) conforms that Executive Directors

- (A8) have overall accountability for the finances of their directorate and must ensure there are proper systems for financial administration and control on place.
- (A9) shall ensure that accounting systems and procedures within their Directorates incorporate adequate controls to safeguard against loss and fraud.
- (B5) are accountable for ensuring effective budgetary control within their directorates.

## 2. Scheme of Delegation

Unless required otherwise by law, the Constitution, the Council and Mayoral Schemes of Delegation or this Scheme of Delegation, the Executive Director for Housing, Regeneration & Environment nominates the following post holders to make the decisions set out in the table below as listed. Please note, throughout this document "Executive Director" refers specifically to the Executive Director for Housing, Regeneration & Environment unless specified otherwise. Where a Director is referred to, it is the relevant and appropriate Director of Service that the authority is delegated to.

**Mayoral Areas of Delegation**

| **Area of delegation** | **Officer with delegated authority** |
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| Day to day control and regulation of the directorate's finances. | Executive Director |

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| Strategic oversight and monitoring of the overall directorate budget.<br><br>Day to day control and monitoring of individual service budgets. | Director of Financial Services in consultation with the Group Finance Manager<br><br>Budget holders |
| **Budget Virements**<br><br>A Budget Virement is a transfer of a budget from the purposes for which Council originally voted in setting the budget and Council Tax to another purpose. (E.g. from one service to another), or another use (e.g. from pay to non-pay or vice versa).<br><br>**Revenue Budget Virements**<br><br>**Within the Directorate**<br><br>Within the same Service area<br><br>a) Up to £20k<br><br>b) Up to £100k<br><br>c) Up to £500k<br><br>**Across Service areas**<br><br>a) Up to £100k<br><br>b) Up to £500k | <br><br><br><br><br><br><br>Group Finance Manager in consultation with Director of Service<br><br>Director of Financial Services or Director of Corporate Resources in consultation with Director of Service.<br><br>Executive Director in consultation with Director of Financial Services or Director of Corporate Resources<br><br><br>Director of Financial Services or Director of Corporate Resources in consultation with the affected Directors of Service<br><br>Executive Director in consultation with Director of Financial Services or Director of Corporate Resources |

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| **Cross Directorate** | |
| a) Up to £100k | Director of Financial Services or Director of Corporate Resources in consultation with the affected Directors of Service |
| b) Up to £500k | Executive Director for Corporate Services (via Executive Management Team) |
| All Revenue Budget Virements above these limits are reserved to Members. | |
| **Capital Budget Virements (on the Council's Capital Programme)** | |
| Up to £500k | Executive Director for Corporate Services |
| Over £500k | Members |
| **Budget Adjustments** | |
| A Budget Adjustment is a transfer of a budget from one cost centre to another whilst retaining the original purpose for which the budget was approved. | |
| Within the same Service area in the same Directorate | Group Finance Manager |
| Across Service areas in the same Directorate | Group Finance Manager in consultation with the affected Directors of Service |
| Across Directorates | Executive Directors of both Directorates |
| Budget transfers relating to technical accounting adjustments | Executive Director for Corporate Services or Director of Financial Services or Director of Corporate Resources |
| Any items that fall outside the above definitions must be referred to the Director of Financial Services or the Director of Corporate Resources for further clarification. | |

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| **Loans**<br><br>Approval of any loan for Treasury Management purposes and the Employee Loan Scheme<br>(all other loan decisions are reserved to Members) | Executive Director for Corporate Services |
| **Contracts**<br><br>Note:<br>• Certain decisions relating to contracts are reserved to Members: see the Mayoral Scheme of Delegation Section R.<br><br>The Contract Procedure Rules in the Constitution set out what the 'Categories' of contract are: see Rule 5.1 of Contract Procedure Rules. | |
| (Note that some decisions are reserved to Members; and other decisions may be affected by the requirements set out at 2 – 15 below)<br><br>1. Decisions relating to contracts<br><br>a) where the estimated expenditure is £50,000 or less;<br><br>b) here the estimated expenditure is over £50,000. | Director of Service<br><br>Executive Director or nominee in accordance with their delegated financial limits |
| 2. Contract Pre-tender authorisations (Contract Procedure Rules 3.1)<br>(Note: see reservations to Members) | Executive Director or nominee in accordance with their delegated financial limits |
| 3. Contract Competitive Quotes and Tenders (Contract Procedure Rules 5.1)<br>Decisions about 'Permitted method of competition':<br><br>a) All decisions other than those set out in b)<br><br>b) Decisions about Category A or Category B contracts where the proposal is for use of a Framework Agreement or use of a Dynamic Purchasing System (either of which must have been established by the Council or a public sector body or bodies, be competitively tendered and be EU compliant) | <br><br>Executive Director or nominee in accordance with their delegated financial limits<br><br>Executive Director for Corporate Services upon the advice of the Director of Law. |
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| 4. Two Stage Procurement Process (Contract Procedure Rules 5.8)<br>Decisions about agreement on the shortlist following expressions of interest | Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 5. Liquidated and Ascertained Damages (Contract Procedure Rules 9.3)<br>Decisions that it is not appropriate to provide for liquidated damages | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 6. Security and Guarantee (Contract Procedure Rules 9.4)<br>Decisions about the sufficiency of security and/or guarantee for the due performance of a contract In relation to contracts with a value above £50,000 | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 7. Submission of Tenders (Contract Procedure Rules 10.1)<br>Where the proposal is to take a different approach to that set out in Table 2 of Contract Procedure Rules | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 8. Late Submissions, Errors etc. (Contract Procedure Rules 10.5)<br><br>a) Decisions to accept late tender or quotation (Contract Procedure Rules 10.5.1)<br><br>b) Decisions to allow alteration of tenders (Contract Procedure Rules 10.5.3) | <br><br>Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law<br><br>Executive Director for Corporate Services or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 9. Contract Award – Energy and Water Contracts (Contract Procedure Rules 13)<br>Decisions about award of those Energy and Water Contracts which are not reserved to Members | Executive Director for Corporate Services |
| 10. Contract Award – Contracts Exceeding the Written Estimate (Contract Procedure Rules 13, and see Rule 4.1). | Executive Director for Corporate Services upon the advice of the Director of Law. |

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| (Note: see reservations to Members)<br>Decisions about award of contracts where the difference between 'Expenditure per contract' and the original 'Estimated expenditure per contract' is greater than the levels set out below:<br>• Goods or Services: difference is more than 10% and less than 20% subject to a maximum of £100,000;<br>Works: difference is more than 10% and less than 25% (subject to a maximum of £250,000). | |
| **11. Insurance arrangements**<br>Decisions about insurance arrangements where either:<br>• The value of the premium payable does not exceed £3 million or<br>The insurance premium does not exceed the rate for the previous year by more than 10% | Executive Director for Corporate Services |
| 12. Execution of Contract (Contract Procedure Rules 14.3)<br>(Note: see Contract Procedure Rules)<br>Execution of contracts where the cumulative value is £200,000 or below but above £50,000 | Executive Director or nominee in accordance with their delegated financial limits |
| 13. Commencement of Contract (Contract Procedure Rules 15.2)<br>Works contracts only: Decisions about use of a letter of intent | Executive Director for Corporate Services or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 14. Permitted Extension or Variation of Contracts or Framework Agreements (Contract Procedure Rules 17.7)<br>(Note: see reservations to Members)<br>Decisions about Permitted Extensions or Variations of Contracts or Framework Agreements in relation to expenditure at the levels set out below, whichever is the greater of -<br>• Where the value of an extension or variation is not more than 10% of the original contract, the value of that extension or variation; or<br>The value of the extension or variation is £500,000 or less (Goods or Services) or £1,000,000 or less (Works). | Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 15. Exemption from the Contract Procedure Rules (Contract Procedure Rules 13 and 18)<br>(Note: see reservations to Members)<br>Decisions about exemption from the requirements | Executive Director for Corporate Services upon the advice of the Director of Law. |

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| of Contract Procedure Rules where there is no value involved or where the value is £500,000 or less (Goods or Services) or £1,000,000 or less (Works) | |
| Grants and Assistance to Voluntary Organisations<br><br>Unless the law, the Constitution, or the Mayoral Schemes of Delegation requires otherwise, the following executive powers are delegated to the Chief Executive and to each Executive Director in relation to grants and assistance to voluntary organisations :-<br><br>(a) the power to make a grant or to give other assistance (excluding loans) to a voluntary organisation within their area of responsibility, where the total value of the assistance in money or moneys worth does not exceed £10,000<br><br>(b) the power to reduce or withdraw a grant or other assistance, and the power to award a grant or give other assistance to a voluntary organisation (irrespective of the value of the grant or assistance) within their area of responsibility if the value of the change in grant is no more than 10% or £5,000, (whichever is the greater), than the grant awarded in the previous year.<br><br>All grants considered to be sensitive or controversial to be included in the forward plan | Executive Director<br><br>Executive Director |
| **Application for External Funding**<br><br><u>Revenue and Capital</u><br>Approval of any application for external funding which is below £1 million with no match funding and/or revenue implications, or<br><br>a) Is below £1 million, and<br><br>b) would require match funding from the Council of below £250,000, and<br><br>c) would have revenue implications of below £250,000 per annum<br><br>Note: All other applications must be approved by Members. | Executive Director and Director of Business Management and Service Support, in conjunction with the Directorate Project Review Group or where necessary the Corporate Project Board.<br><br>Executive Director or in his/her absence Director of Corporate Resources or Director of Financial Services (in consultation with the Capital Programme Delivery Board for capital funding). |

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| Capital<br><br>Before submitting a report to Mayor and Cabinet to seek approval to bid for funding, an initial agreement to proceed **must** be sought from the Regeneration and Capital Programme Board. | |
| **Subscriptions -** affiliations to and payment of subscriptions to outside bodies up to a maximum of £25,000 per annum.<br><br>a) Within own area of responsibility up to £5k<br><br>b) Above £5k up to £25k | <br><br>Director of Service<br><br>Executive Director (or in their absence, the Director of Financial Services of Director of Corporate Resources) |
| **Bad Debt Write Off**<br><br>**Recommendation** for write-off of bad debts (excluding housing rents) to the Executive Director for Corporate Services (up to £50,000) or the Mayor (£50,000 and over)<br><br>Write off of bad debts in relation to housing rent arrears up to £10,000 | <br><br>Executive Director in consultation with the Director of Financial Services<br><br>Executive Director for Housing, Environment & Regeneration or Executive Director for Corporate Services |
| **Write off of non-land and non-building assets**<br><br>Write off up to £20,000<br>(must be recorded in the directorate inventory log as stated in the Financial regulations) | <br><br>Directors of Service in consultation with the Group Finance Manager. |
| **Directorate Employment Matters**<br>Employment matters relating to the Directorate, namely recruitment, appointments, disciplinary, and grievance | <br>Director of Service |
| **Housing -** the housing management function shall include but not be limited to;<br>• the maintenance and management of all land and property held by the Council for housing purposes;<br><br>• the provision of garden, open spaces and land for housing purposes,<br><br>• decisions in relation to the right to buy under the Housing Act 1985 (or other relevant legislation in | <br>Director of Housing Services<br><br>Director of Housing Services<br><br>Director of Housing Services |

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| force from time to time, (but not decisions relating to market value and sale prices which are delegated to the Executive Director Regeneration), | |
| • responsibility for the management of the Housing Revenue Account and other revenue resources ensuring effective financial control of resources and the achievement of value for money, subject always to the approval of the Executive Director Corporate Services in relation to decisions about the allocation of funds and expenditure to the Housing Revenue Account and General Fund. | Director of Financial Services |
| • dealings with housing associations, save to the extent that such decisions relate to housing development or capital schemes, which are delegated to the Executive Director for Corporate Services | Director of Housing Services |
| • responsibility for setting charges for heat, light and power to Council properties served by a communal supply in accordance with policies approved by the Mayor. | Director of Financial Services |
| **Housing –** the housing function shall include but not be limited to;<br>• housing strategy and development,<br>• housing need and homelessness including private sector housing, housing partnerships and<br>• environmental health (housing). | Director of Housing Services |
| Environment - The Environment function shall include, but not be limited to:<br>Environmental Matters, Consumer Protection, Burial and Cremation, Refuse, Waste Management, Parks and Community Services, Community Hygiene, Animal Welfare and Pest Control, Street Trading, Fleet Services. | Director of Environment |
| **Urban Regeneration -** The urban regeneration function shall include but not be limited to: | |
| a) Urban regeneration (in so far as initiatives do not fall within the remit of another Executive Director). | Director of Regeneration & Place |
| b) The management and implementation of urban regeneration initiatives including single regeneration schemes and housing regeneration schemes which have been approved by the executive including management of the housing | Director of Regeneration & Place |

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| investment programme and other capital programmes and resources ensuring effective financial control of resources and achievement of value for money, subject always to the approval of the Executive Director for Corporate Services in relation to decisions about the allocation of funds and expenditure. | |
| c) The provision & estate management of travellers' sites. | Director of Regeneration & Place in conjunction with the Director of Crime Reduction and Supporting People |
| d) Responsibility for matters relating to housing associations to the extent that such decisions relate to housing development and capital schemes. | Director of Regeneration & Place in conjunction with the Director of Housing Strategy |
| **Planning and Economic Development** – The Planning and Economic Development functions shall include but not be limited to: | |
| a) Town Planning and Economic Development. | Director of Planning |
| b) The encouragement and development of employment and training opportunities and facilities. | Director of Planning |
| **Traffic Management** - The Traffic function shall include, but not be limited to: | |
| Traffic Management and Regulation, Highways, Transport Planning, promotion of new projects and initiatives relating to the service area. | Director of Regeneration & Place |
| **Property** | |
| **A) Acquisitions**<br>The acquisition of freehold and/or leasehold interest in land and property or other interest in land, subject to the necessary financial provision having been made and agreement by Asset Management Board and where the estimated capital value of the property does not exceed £500,000. | Director of Regeneration & Place in consultation with Director of Law or their nominee |
| Authority for the Council to take leases, licences, tenancies, wayleaves or easements (including renewal) of land and property subject to agreement by Asset Management Board where the estimated value does not exceed £50,000 p.a. | Director of Regeneration & Place in consultation with Director of Law or their nominee |

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| **B) Management**<br><br>In relation to all properties save dwelling houses let on secure tenancies, to take the following actions, provided where applicable, that the necessary financial provision has been made. | |
| 1) The grant (including renewal) of leases, licences or tenancies of all Council owned land and property for a rental or licence fee reflecting market value. | Director of Regeneration & Place in consultation with Director of Law or their nominee |
| 2) The grant (including renewal) of wayleaves or easements over or affecting Council owned land and property, including licences of advertisement hoardings. | Director of Regeneration & Place in consultation with Director of Law or their nominee |
| 3) The approval of rent or fee reviews of leases, licences, tenancies, wayleaves or easements granted or held by the Council. | Director of Regeneration & Place in consultation with Director of Law or their nominee |
| 4) The alteration or waiver of terms and conditions of leases, licences, tenancies, wayleaves or easements granted or held by the Council. | Director of Regeneration & Place in consultation with Director of Law or their nominee |
| 5) The approval of terms for the waiver, variation or amendment of covenants in transfer documents including those in respect of properties sold under the Right to Buy. | Director of Regeneration & Place in consultation with Director of Law or their nominee |
| 6) The approval of the terms for the assignment, subletting, surrender or operation of a break clause of any lease, licence, tenancies, wayleaves or easements granted or held by the Council in any land or property. | Director of Regeneration & Place in consultation with Director of Law or their nominee |
| 7) The approval of the terms for the settlement of any claim for dilapidations or other breaches of covenants in respect of land and property granted or held etc subject to necessary financial provision. | Director of Law in consultation with Director of Regeneration & Place |
| 8) The authorisation of service of notices under all legislation relating to Council land ownership. | Director of Law in consultation with the Director of Regeneration & Place<br><br>Director of Law in consultation with the Director of Regeneration & Place |

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| 9) The instigation of court proceedings for the recovery of all monies owing to the Council and possession of land and property, including authorisation of the enforcement of a Court Order for Possession. | |
| **C) Declaring Property Surplus**<br><br>1) Upon being advised by the Executive Director for the Directorate using a property that it is surplus to the requirements of that Directorate, the Executive Director for Corporate Services may, following consultation with other Directorates as to any alternative use for the property, and having first informed the ward members in which the property is situated, declare the property surplus to corporate requirements and authorise its disposal, if no alternative use is identified by Directorates, provided that the estimated disposal value of the property does not exceed £500,000.<br><br>2) If a property no longer required for use by a Directorate is required for an alternative use, the Executive Director for Corporate Services, having first informed ward members for the ward in which the property is situated, may authorise its appropriation to the new use and the book value at the time of change of use, for capital charge purposes<br><br>3) If in the view of the Executive Director for Corporate Services, a property ought to be disposed of notwithstanding a proposed alternative use, the matter shall be referred to the Executive for decision, ward members having first been informed as above. | Director of Regeneration & Place in consultation with the Regeneration and Capital Programme Delivery Board<br><br>Director of Regeneration & Place in consultation with the Regeneration and Capital Programme Delivery Board<br><br>Director of Regeneration & Place in consultation with the Regeneration and Capital Programme Delivery Board |
| **D) Disposal**<br><br>A Disposal is defined as the sale of the Council's freehold interest or the grant of a lease exceeding 7 years in length in consideration of a premium and/or ground rent. Disposals will be effected in such a way to ensure that the Council receives the best consideration reasonably obtainable and in accordance with the Property Disposal Procedures approved by the Executive from time to time. Any proposed disposal at less than the best consideration reasonably obtainable will be referred to the Executive for approval. All disposals will be subject to any necessary Ministerial Consents being obtained.<br><br>1) Following the decision to dispose, the approval of the terms for the disposal**,** of land or property which | Director of Regeneration & Place in consultation with the |

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| has previously been declared surplus to requirements and approved for disposal either by the Executive or by the Executive Director for Corporate Services acting under delegated authority**,** where the sale is by way of formal or informal tender or public auction and the estimated value or agreed sale price does not exceed £500,000. | Director of Law or their nominee**.** |
| 2) The decision to dispose, and the approval of the terms for the disposal**,** of land or property which has previously been declared surplus to requirements and approved for disposal either by the Executive or by the Executive Director for Corporate Services acting under delegated authority**,** where the sale is by way of private treaty or to a special purchaser where the estimated value or agreed sale price does not exceed £500,000. | Director of Regeneration & Place in consultation with the Director of Law or their nominee |
| 3) The disposal of residential dwellings and agreement of sale terms where there is a legal obligation on the Council to sell where the sale price does not exceed £500,000. | Director of Regeneration & Place in consultation with the Director of Law or their nominee |
| 4) The approval of terms for the disposal of mortgage repossession properties, subject to the other relevant provisions of this paragraph (d). | Director of Regeneration & Place in consultation with the Director of Law or their nominee |
| 5) The approval of terms for the disposal of vacant land and property in charge to the Council, subject to the other relevant provisions of this paragraph (d). | Director of Regeneration & Place in consultation with the Director of Law or their nominee |
| 6) The approval of the terms for the disposal of any residual freehold interest in a block/building to all leaseholders jointly, subject to all other relevant provisions of this paragraph (d). This is also subject all units having previously been sold and subject to the purchasers Solicitor's confirming that suitable arrangements will be entered into by all parties regulating the future management of the whole block/building. | Director of Regeneration & Place in consultation with the Director of Law or their nominee |
| 7) Authority to take such action as is necessary in accordance with agreed procedures concerning the disposal of land or property. | Director of Regeneration & Place in consultation with the Director of Law or their nominee |

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| 8) The approval of the terms for the assignment, subletting, surrender or operation of any break clause of any lease, licence, tenancies, wayleaves or easements granted or held by the Council in any land or property which has been declared surplus to requirements. | Director of Regeneration & Place in consultation with the Director of Law or their nominee |
| **E) Capital Finance Regulations**<br><br>The Executive Director for Corporate Services will take decisions to earmark the proceeds of sale from asset disposals for expenditure on in/out schemes under the Local Authorities (Capital Finance and accounting) England Regulations 2003 as amended, including (without limitation) regeneration projects and replacement of asset schemes subject to the approval of the schemes themselves having previously been approved by the Executive or the Director of Regeneration & Asset Management under delegated powers. | Executive Director for Corporate Services |
| **F) Property - General**<br><br>a) In accordance with the provisions of Part IV I of the constitution, authority to sign property related documentation for or on behalf of the Council in relation to all powers delegated by this Scheme of Delegation save for documents to be entered into by way of deed. | Director of Regeneration & Place |
| b) Authority to agree terms and enter into agreements for any matter of a minor or urgent nature affecting land or property either owned or leased by the Council. | Director of Regeneration & Place |
| c) Authority to undertake and sign valuations for statutory or other Council purposes. | Director of Regeneration & Place |
| d) The submission of planning applications. | Director of Regeneration & Place |
| e) To approve the terms of such other agreements or transactions as may be in the best interests of the Council of a minor or urgent nature | Director of Regeneration & Place |
| f) To take such actions and incur such expenditure as is necessary to ensure the proper management of council owned property. | Director of Regeneration & Place |

**Council (Non-Executive) Areas of Delegation**

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| **Non-executive Planning and Highways Matters** | |
| Authority to deal with all town and country planning, development control, high hedges and highway and road traffic functions under all existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the planning committees A, B or C or the strategic planning committee. This includes by way of example but not limitation: - | Director of Planning |
| • Determining applications, (or declining to determine applications where applicable), for planning permission, advertisement consent, listed buildings and conservation area consent,certificates of lawfulness or lawful development, works to trees, hazardous substances, environmental impact assessment screening and scoping opinions, decisions in respect of the prior approval procedure for telecommunication development. | Director of Planning |
| • Issuing planning contravention notices, breach of condition notices, enforcement notices, stop notices, temporary stop notices, untidy land notices and other similar notices and questionnaires. | Director of Planning |
| • Making and confirming tree preservation orders and enforcing their provisions. | Director of Planning |
| • Taking action in relation to unauthorised advertisements, placards or posters. | Director of Planning |
| • Entering into agreements to regulate the development or use of land (including the approval of the detailed terms for inclusion in such agreements whether the agreement is to be entered into under delegated authority or following a resolution of members). | Director of Planning |
| • Approving the details of conditions to be imposed on planning permissions (whether the permission is to be granted under delegated authority or following resolution to grant by members). | Director of Planning |
| • Utilising the powers contained within planning, high hedges and highways legislation to gain entry to | Director of Planning |

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| premises for the purpose of carrying out surveys and establishing whether there has been a breach of legislation including applying to the magistrates' court for a warrant of entry. | |
| • Carrying out any other regulatory enforcement functions contained in town and country planning, high hedges, road traffic or highways legislation in force from time to time. | Director of Planning |
| • Authorising the Director of Law to take any legal action which may be appropriate which relates to any function of the Executive Director including the taking or defending of legal proceedings and entering into legal agreements as may be required. | Director of Regeneration & Place |
| • Creating, diverting and stopping up footpaths, highways and bridleways | Director of Regeneration & Place |
| • The making and enforcement of road traffic regulation and highways orders. | Director of Regeneration & Place |
| • Dealing with applications for street works licences | Director of Regeneration & Place |
| • Exercise of non-executive powers under local legislation (including without limitation, names of streets under Sections 5 and 6 London Building Acts (Amendment) Act 1939). | Director of Regeneration & Place |
| • Exercise of powers under Part 8 of the Anti-social Behaviour Act 2003 in relation to high hedges<br><br>Please refer to the Council's Scheme of Delegation for Schedule (non-exhaustive) of relevant statutes (in so far as they relate to non-executive highways and planning matters.<br><br>Nothing in this Schedule of Delegation prevents any Planning Committee or the Strategic Planning Committee exercising any function within their terms of reference.<br><br>The Committee may from time to time delegate to officers such functions as it considers appropriate. | Director of Regeneration & Place |
| **Non-Executive Building Control matters:**<br><br>Authority to deal with all non-executive building control functions under existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the schedule of delegation in | Director of Regeneration & Place |

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| relation to non-Executive Building Control matters, save for those local choice functions reserved to the Executive and those matters reserved to the planning committees A, B or C or the strategic planning committee. This includes by way of example but not limitation: -<br><br>• Determining applications, (or declining to determine applications where applicable), for building control approval.<br>• Issuing enforcement notices, and other similar notices and questionnaires<br>• Issuing notices and orders in relation to building control<br>• Using the powers contained within legislation to gain entry to premises for the purpose of carrying out surveys and establishing whether there has been a breach of legislation including applying to the magistrates' court for a warrant of entry<br>• Carrying out any other regulatory enforcement functions and building control contained in legislation in force from time to time<br>• Authorising the Director of Law to take any legal action which may be appropriate which relates to any function of the Executive Director including the taking or defending of legal proceedings and entering into legal agreements as may be required<br>• Removal of nuisance deposits on the highway<br>• Dealing with applications for street works licences | |

**Please refer to the Council Scheme of Delegation for all other matters reserved to the Licensing Committee and Licensing Sub-Committee.**

## 3. General

All non-executive functions not reserved to Members, shall be delegated to the Chief Executive or such officer as he or she shall nominate in writing, unless there is a statutory requirement that the function be carried out by another officer, for example the personal statutory responsibilities of the Director of Children's Services and the Director of Adult Services.

## 4. Exemptions

The Mayoral Schemes of Delegation state that authority to exercise executive functions and make executive decisions is delegated to officers, except where there is an exemption to the contrary. Where such an exemption exists, the general rule is that those decisions will be made by the Mayor individually, in consultation with his colleagues in the Executive. Officers should refer to the Mayoral Schemes of Delegation; to Section I and Table 1 for general exemptions and to Section L and Table 4 for exemptions specific to Housing, Regeneration & Environment. Exemptions which may override delegated authority to officers to make decisions,

as detailed in Section 2 of the Housing, Regeneration & Environment Scheme of Delegation, are repeated below.

1. Any matter in which the officer who would otherwise have delegated authority to act is aware that a councillor (or a person, company or organisation with which the councillor is involved) has a personal interest under the Council's Member Code of Conduct.

2. Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest.

3. Any matter which in the opinion of the Executive Director for Housing, Regeneration & Environment, the Chief Executive or the Director of Law because of the scale of the decision, its potential impact, the sensitivity of the decision or for any other reason would more appropriately be dealt with by members.

Signed

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Kevin Sheehan Date

Executive Director for Housing, Regeneration & Environment

## The Directorate for Corporate Services Scheme of Delegation

### 1. Purpose

1.1. The Corporate Services Directorate scheme of delegation sets out the post titles of those officers whom the Executive Director for Corporate Services has nominated to take decisions on areas from the Council and Mayoral Schemes of Delegation where responsibility has been delegated to the Executive Director for Corporate Services.

1.2. All matters pertaining to Corporate Services have been temporarily delegated to the Director of Corporate Resources, acting as the Chief Finance Officer. The Director of Financial Services is temporarily acting as Deputy Section 151 officer.

1.3. This Scheme of Delegation will remain in force until it is amended or revoked by the Executive Director for Corporate Services or via changes to the Council and Mayoral Schemes of Delegation.

1.4. The purpose of the Corporate Services Directorate scheme of delegation is to be clear about which officer has been nominated to make delegated decisions within this directorate.

1.5. The scheme is subject to the Council's Constitution, the Council and Mayoral Schemes of Delegation, Financial Regulations and Standing Orders.

1.6. Directors will continue to be responsible for running their own services and taking decisions in line with their service requirements unless specifically required in this scheme of delegation or determined by the Executive Director for Corporate Services to seek other agreement.

1.7. Some decisions in this scheme of delegation will still be required to be taken directly by the Executive Director for Corporate Services or the Director of Law, in their absence, they will nominate an appropriate officer/s to assume these responsibilities but, unless otherwise notified, the following nominations will apply:

- Council-wide Section 151 financial decisions – Director of Corporate Resources as deputy S151 officer
- Directorate financial decisions – Director of Financial Services
- Legal decisions – Director of Law or Deputy Monitoring Officer/Principal Lawyers as appropriately nominated by the Director of Law
- Corporate Personnel/Human Resources decisions - Director of Organisational Development & Human Resources
- Contract matters - Director of Corporate Resources

1.8. Where the word 'nominee' is used, the nomination is to be made by the post holder referred to, in writing, and a record of all such nominations within the directorate must be kept in the directorate and be available for inspection at any time.

1.9. Where power is delegated to the Executive Director, and officers are nominated by him/her under this Scheme of Delegation, the power will be exercised in a manner that decisions are not made in isolation and that the decision maker takes into account the broader corporate implications for the Council. If officers take key decisions, as defined in Article 16 of the Constitution of the London Borough of Lewisham, the law requires them to comply with the prevailing access to information regulations. In addition, for key executive decisions which are to be taken by officers individually, the Chief Executive may, from time to time, put in place a procedure to ensure that officer decision making is exercised in a manner which reflects corporate considerations. Officers may only exercise delegated authority in relation to key executive decisions by complying with the procedures as stated in the Constitution.

1.10. Please note that the DEP/CEP process for staffing spend has been replaced by the Corporate Permission to Recruit (CPR)

1.11. For non-staffing spend, the financial regulations (section K of the constitution) conforms that Executive Directors

- (A8) have overall accountability for the finances of their directorate and must ensure there are proper systems for financial administration and control on place.
- (A9) shall ensure that accounting systems and procedures within their Directorates incorporate adequate controls to safeguard against loss and fraud.
- (B5) are accountable for ensuring effective budgetary control within their directorates.

## 2. Scheme of Delegation

2.1. Unless required otherwise by law, the Constitution, the Council and Mayoral Schemes of Delegation or this Scheme of Delegation, the Executive Director for Corporate Services nominates the following post holders to make the decisions set out in the table below as listed. Please note, throughout this document “Executive Director” refers specifically to the Executive Director for Corporate Services unless specified otherwise. Where a Director is referred to, it is the relevant and appropriate Director of Service that the authority is delegated to.

| **Area of delegation** | **Officer with delegated authority or their nominee** |
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| Day to day control and regulation of the Council's finances. | Executive Director |
| Overall co-ordination of council wide revenue and capital budget monitoring. | Director of Financial Services |
| Council wide accounting policies. | Director of Financial Services |

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| Strategic oversight and monitoring of the overall directorate budget.<br><br>Day to day control and monitoring of individual service budgets. | Director of Financial Services in consultation with the Group Finance Manager<br><br>Budget holders |
| **Budget Virements**<br><br>A Budget Virement is a transfer of a budget from the purposes for which Council originally voted in setting the Budget and Council Tax to another purpose (e.g. from one service to another), or another use (e.g. from pay to non-pay or vice versa).<br><br>**Revenue Budget Virements**<br><br>**Within the Directorate**<br><br>**Within the same Service area**<br><br>a) Up to £20k<br><br>b) Up to £100k<br><br>c) Up to £500k<br><br>**Across Service areas**<br><br>a) Up to £100k<br><br>b) Up to £500k<br><br>**Cross Directorate**<br><br>a) Up to £100k | <br><br><br><br><br><br><br><br><br><br>Group Finance Manager in consultation with the Director of Service<br><br>Director of Financial Services or Director of Corporate Resources in consultation with Director of Service<br><br>Executive Director<br><br><br>Director of Financial Services or Director of Corporate Resources in consultation with the affected Director of Service<br><br>Executive Director<br><br><br>Director of Financial Services or Director of Corporate Resources in consultation |

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| | with the affected Director of Service |
| b) Up to £500k | Executive Director (via Executive Management Team) |
| All Revenue Budget Virements above these limits are reserved to Members | |
| **Capital Budget Virements (on the Council's Capital Programme)** | |
| Up to £500k | Executive Director |
| Over £500k | Members |
| **Budget Adjustments** | |
| A Budget Adjustment is a transfer of a budget from one cost centre to another whilst retaining the original purpose for which the budget was approved. | |
| Within the same Service area in the same Directorate | Group Finance Manager |
| Across Service areas in the same Directorate | Group Finance Manager in consultation with the affected Director of Service |
| Across Directorates | Executive Directors of both Directorates |
| Budget transfers relating to technical accounting adjustments | Executive Director for Corporate Services or Director of Financial Services or Director of Corporate Resources |
| Any items that fall outside the above definitions must be referred to the Director of Financial Services or the Director of Corporate Resources for further clarification | |
| **Loans** | |
| Approval of any loan for Treasury Management purposes and the Employee Loan Scheme (all other loan decisions are reserved to Members) | Executive Director for Corporate Services |

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| **CONTRACTS**<br><br>Note:<br>• Certain decisions relating to contracts are reserved to Members: see the Mayoral Scheme of Delegation Section R.<br><br>• The Contract Procedure Rules in the Constitution set out what the 'Categories' of contract are: see Rule 5.1 of Contract Procedure Rules. | |
| (Note that some decisions are reserved to Members; and other decisions may be affected by the requirements set out at 2 – 15 below)<br><br>1. Decisions relating to contracts<br>a) where the estimated expenditure is £50,000 or less;<br>b) where the estimated expenditure is over £50,000. | <br><br><br>Director of Service<br><br>Executive Director or nominee in accordance with their delegated financial limits |
| 2. Contract Pre-tender authorisations (Contract Procedure Rules 3.1)<br>(Note: see reservations to Members) | Executive Director or nominee in accordance with their delegated financial limits |
| 3. Contract Competitive Quotes and Tenders (Contract Procedure Rules 5.1)<br>Decisions about 'Permitted method of competition':<br><br>a) All decisions other than those set out in b)<br><br>b) Decisions about Category A or Category B contracts where the proposal is for use of a Framework Agreement or use of a Dynamic Purchasing System (either of which must have been established by the Council or a public sector body or bodies, be competitively tendered and be EU compliant) | <br><br><br>Executive Director or nominee in accordance with their delegated financial limits<br><br>Executive Director for Corporate Services upon the advice of the Director of Law. |
| 4. Two Stage Procurement Process (Contract Procedure Rules 5.8)<br>Decisions about agreement on the shortlist following expressions of interest | Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |

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| 5. Liquidated and Ascertained Damages (Contract Procedure Rules 9.3)<br>Decisions that it is not appropriate to provide for liquidated damages | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 6. Security and Guarantee (Contract Procedure Rules 9.4)<br>Decisions about the sufficiency of security and/or guarantee for the due performance of a contract In relation to contracts with a value above £50,000 | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 7. Submission of Tenders (Contract Procedure Rules 10.1)<br>Where the proposal is to take a different approach to that set out in Table 2 of Contract Procedure Rules | Executive Director for Corporate Services upon the advice of the Director of Law. |
| 8. Late Submissions, Errors etc. (Contract Procedure Rules 10.5)<br><br>a) Decisions to accept late tender or quotation (Contract Procedure Rules 10.5.1)<br><br>b) Decisions to allow alteration of tenders (Contract Procedure Rules 10.5.3) | <br><br>Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law<br><br>Executive Director for Corporate Services or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 9. Contract Award – Energy and Water Contracts (Contract Procedure Rules 13)<br>Decisions about award of those Energy and Water Contracts which are not reserved to Members | Executive Director for Corporate Services |
| 10. Contract Award – Contracts Exceeding the Written Estimate (Contract Procedure Rules 13, and see Rule 4.1).<br>(Note: see reservations to Members) Decisions about award of contracts where the difference between 'Expenditure per contract' and the original 'Estimated expenditure per contract' is greater than the levels set out below:<br>• Goods or Services: difference is more than 10% and less than 20% subject to a maximum of £100,000; | Executive Director for Corporate Services upon the advice of the Director of Law. |

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| • Works: difference is more than 10% and less than 25% (subject to a maximum of £250,000). | |
| 11. Insurance arrangements<br>Decisions about insurance arrangements where either:<br>• The value of the premium payable does not exceed £3 million or<br>• The insurance premium does not exceed the rate for the previous year by more than 10% | Executive Director for Corporate Services |
| 12. Execution of Contract (Contract Procedure Rules 14.3)<br>(Note: see Contract Procedure Rules)<br>Execution of contracts where the cumulative value is £200,000 or below but above £50,000 | Executive Director or nominee in accordance with their delegated financial limits |
| 13. Commencement of Contract (Contract Procedure Rules 15.2)<br>Works contracts only: Decisions about use of a letter of intent | Executive Director for Corporate Services or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 14. Permitted Extension or Variation of Contracts or Framework Agreements (Contract Procedure Rules 17.7)<br>(Note: see reservations to Members)<br>Decisions about Permitted Extensions or Variations of Contracts or Framework Agreements in relation to expenditure at the levels set out below, whichever is the greater of -<br>• Where the value of an extension or variation is not more than 10% of the original contract, the value of that extension or variation; or<br>• The value of the extension or variation is £500,000 or less (Goods or Services) or £1,000,000 or less (Works). | Executive Director or nominee in accordance with their delegated financial limits upon the advice of the Director of Law. |
| 15. Exemption from the Contract Procedure Rules (Contract Procedure Rules 13 and 18)<br>(Note: see reservations to Members)<br>Decisions about exemption from the requirements of Contract Procedure Rules where there is no value involved or where the value is £500,000 or less (Goods or Services) or £1,000,000 or less (Works) | Executive Director for Corporate Services upon the advice of the Director of Law. |
| **Capital Finance Regulations**<br><br>To make decisions to earmark the proceeds of sale from asset disposals for expenditure on in/out schemes | Executive Director for Corporate Services |

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| under the Local Authorities (Capital Finance) Regulations 1997 as amended, including (without limitation) regeneration projects and replacement of asset schemes subject to the approval of the schemes themselves having previously been approved by the Executive or the Executive Director for Corporate Services under delegated powers. | |
| **Treasury Management.**<br><br>In so far as they are executive decisions, matters delegated to the Executive Director for Corporate Services in accordance with the Council's Treasury Management Strategy from time to time. | Director of Corporate Resources |
| **Grants and Assistance to Voluntary Organisations**<br><br>Unless the law, the Constitution, or the Mayoral Schemes of Delegation requires otherwise, the following executive powers are delegated to the Chief Executive and to each Executive Director in relation to grants and assistance to voluntary organisations:-<br><br>(a) the power to make a grant or to give other assistance (excluding loans) to a voluntary organisation within their area of responsibility, where the total value of the assistance in money or moneys worth does not exceed £10,000<br><br>(b) the power to reduce or withdraw a grant or other assistance, and the power to award a grant or give other assistance to a voluntary organisation (irrespective of the value of the grant or assistance) within their area of responsibility if the value of the change in grant is no more than 10% or £5,000, (whichever is the greater), than the grant awarded in the previous year.<br><br>**All grants considered to be sensitive or controversial to be included in the forward plan** | <br><br><br><br><br><br><br>Executive Director<br><br><br><br><br><br>Executive Director |
| **Application for External Funding**<br><br><u>Revenue and Capital</u><br><br>Approval of any application for external funding which is below £1 million with no match funding and/or revenue implications, or<br><br>a) Is below £1 million, and | <br><br><br>Executive Director or in his/her absence Director of Corporate Resources or Director of Financial Services in consultation with the |

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| b) would require match funding from the Council of below £250,000, and<br><br>c) would have revenue implications of below £250,000 per annum<br><br>Note: All other applications must be approved by Members.<br><br><u>Capital Only</u><br>Before submitting a report to Mayor and Cabinet to seek approval to bid for funding, an initial agreement to proceed **must** be sought from the Capital Programme Delivery Board. | Capital Programme Delivery Board. |
| **Subscriptions** - affiliations to and payment of subscriptions to outside bodies up to a maximum of £25,000 per annum.<br><br>Within own area of responsibility up to £5k<br><br>Above £5k up to £25k | <br><br><br>Director of Service<br><br>Executive Director (or in their absence the Director of Financial Services or Director of Corporate Resources) |
| **Bad Debt Write Off**<br><br>Unless the law, the Constitution, or the Mayoral Schemes of Delegation require otherwise, the following executive powers are delegated to the officers in relation to bad debt:-<br><br>Write off of bad debts (excluding housing rent arrears) up to £50,000.<br><br>If debts of the person or organisation to that total have been written off by the Council in the previous three years, the decision shall not be delegated to the Executive Director for Corporate Services. In such cases the power is reserved to members.<br><br>Write off of bad debts in relation to housing rent arrears up to £10,000<br><br>**Recommendation** of write-off of bad debts to the Executive Director for Corporate Services (up to £50,000). | <br><br><br><br><br>Executive Director for Corporate Services<br><br><br><br><br><br>Executive Director for Housing, Regeneration & Environment or Corporate Services<br><br>Director of Corporate Resources or Director of Financial Services |

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| **Write off and/or disposal of non-land and non-building assets**<br><br>Write off up to £20,000<br><br>**(must be recorded in the directorate inventory log as stated in the Financial regulations)** | Director of Service in consultation with Director of Financial Services or Director of Corporate Resources |
| **Corporate Employment Matters**<br><br>Save as required by law, the Council's Constitution or the Mayoral Schemes of Delegation decisions relating to all employment procedures and processes are delegated to the Executive Director for Corporate Services or such person as he/she may nominate, in so far as they are executive functions, unless they are specifically reserved to members.<br><br>1) All matters relating to employment procedures and processes other than the following items:<br><br>a) JNC matters<br><br>b) matters relating to posts above PO9<br><br>c) the award/maintenance of market supplements | <br><br><br><br><br><br><br>Director of Organisational Development and Human Resources<br><br>Chief Executive<br><br>Executive Director for Corporate Services |
| **Directorate Employment Matters**<br><br>Employment matters relating to the Directorate, namely recruitment, appointments, disciplinary, and grievance | Director of Service |
| **Information Security and Governance** | Executive Director for Corporate Services |
| **Bidding for External Work**<br><br>Decisions about whether the Council should bid for, and if successful, perform work or provide services to external bodies is delegated to the Chief Executive, to the extent that the proposed contract would relate to executive functions. Before exercising this function, the Chief Executive must first consult with the Director of Law and Executive Director for Corporate Services. However, where the estimated value of the work | Chief Executive in consultation with the Executive Director for Corporate Services and Director of Law |

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| exceeds £1 million per year, or £3 million in total whichever is the smaller, the Chief Executive shall not exercise this delegated power. | |
| **Delegation to the Director of Law**<br><br>a) The Director of Law has delegated authority to initiate, conduct and defend all proceedings brought by or against the Council in any court, Tribunal or Arbitration<br><br>b) The Director of Law has delegated authority to settle proceedings for up to £500,000 subject to budgetary provision being available if she is of the opinion that it would be in the interests of the Council to do so.<br><br>c) The Director of Law has delegated authority to settle proceedings up to £1 million if he/she is satisfied that it is in the interests of the Council to do so, has consulted with the Executive Director for Corporate Services and she agrees with the terms of the proposed settlement. Decisions to settle proceedings for a sum above £1 million shall be taken by the Mayor.<br><br>d) The Director of Law has delegated authority to act as the proper officer for those purposes listed in Table 6 of the Mayoral Schemes of Delegation | Director of Law<br><br>Director of Law<br><br>Director of Law<br><br>Director of Law |
| **Revenues & Benefits**<br><br>All executive functions relating to the administration of revenues and benefits (Council Tax, NNDR and Housing Benefits), its one stop shop service, call centre services and cashiers. | Director of Public Services |
| **Registration** of births, deaths and marriages | Director of Public Services |
| **Business Continuity**<br><br>Responsibility for the corporate emergency planning and business continuity functions | Director of Public Services |
| **Housing Benefit Overpayments**<br><br>Applications for judgement | Corporate Debt Collection Manager |
| Information Management Technology | Director of IT & Digital Services |

## 3. General

All non-executive functions not reserved to Members, shall be delegated to the Chief Executive or such officer as he or she shall nominate in writing, unless there is a statutory requirement that the function be carried out by another officer, for example the personal statutory responsibilities of the Director of Children's Services.

## 4. Exemptions

The Mayoral Scheme of Delegation states that authority to exercise executive functions and make executive decisions is delegated to officers, except where there is an exemption to the contrary. Where such an exemption exists, the general rule is that those decisions will be made by the Mayor individually, in consultation with his colleagues in the Executive. Officers should refer to the Mayoral Scheme of Delegation; to Section I and Table 1 for general exemptions, and to Section M and Table 5 for exemptions specific to the Corporate Services Directorate.

Exemptions which may override delegated authority to officers to make decisions, as detailed in Section 2 of the Corporate Services Scheme of Delegation, are repeated below.

1. Any matter in which the officer who would otherwise have delegated authority to act is aware that a councillor (or a person, company or organisation with which the councillor is involved) has a personal interest under the Council's Member Code of Conduct.

2. Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest.

3. Any matter which in the opinion of the Executive Director for Corporate Services, the Chief Executive or the Director of Law because of the scale of the decision, its potential impact, the sensitivity of the decision or for any other reason would more appropriately be dealt with by members.

Signed

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David Austin
Acting Chief Finance Officer Date:

# APPENDIX 1

## Exempt & Confidential Information

### (Schedule 12A of the Local Government Act 1972)

**APPENDIX 1 – (Schedule 12A of the Local Government Act 1972)**

## ACCESS TO INFORMATION: EXEMPT INFORMATION

## PART 1

## DESCRIPTION OF EXEMPT INFORMATION: ENGLAND

1. Information relating to any individual.

2. Information which is likely to reveal the identity of an individual.

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

5. Information in respect of which claim to legal professional privilege could be maintained in legal proceedings.

6. Information which reveals that the authority proposes:

   (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

   (b) to make an order or direction under any enactment.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## PART 2

## QUALIFICATIONS: ENGLAND

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

   (a) the Companies Act (as defined in Section 2 of the Companies Act 2006);

   (b) the Friendly Societies Act 1974;

   (c) the Friendly Societies Act 1992;

(d) the Industrial and Provident Societies Acts 1965 to 1978;

(e) the Building Societies Act 1986; or

(f) the Charities Act 2011.

9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

10. Information which:

(a) falls within any paragraphs 1 to 7 above; and

(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest maintaining the exemption outweighs the public interest in disclosing the information.

## PART 3

## INTERPRETATION: ENGLAND

11. (1) In Parts 1 and 2 and this Part of this Schedule:

"employee" means a person employed under a contract of service;

"financial or business affairs" includes contemplated, as well as past or current, activities;

"Labour relations matter" means:

(a) any of the matters specified in paragraph (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) any dispute abut a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to

office-holders under the authority as they apply in relation to employees of the authority;

"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

"registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

(2) Any reference in Parts 1 and 2 and this Part of this Schedule to "the authority" is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference:

(a) in the case of a principal council, to any committee or sub-committee of the council; and

(b) in the case of a committee, to:

(i) any constituent principal council;

(ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and

(iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and

(c) in the case of a sub-committee, to:

(i) the committee, or any of the committees, of which it is a sub-committee, and

(ii) any principal council which falls within paragraph (b) above in relation to that committee.

**PARTS 4, 5 AND 6 APPLY ONLY IN WALES**

# APPENDIX 2

# Petition Scheme

# APPENDIX 2

## LONDON BOROUGH OF LEWISHAM
## PETITION SCHEME

1. INTRODUCTION

1.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 14 days of receipt. This acknowledgement will set out what we plan to do with the petition.

Paper petitions can be sent to :-

The Head of Governance Support, Council's main offices, Catford, SE6 4RU

Or be created, signed and submitted on line by following this link

http://lewisham-consult.limehouse.co.uk/portal/petitions

1.2 Petitions can also be presented to a meeting of the Council. These meetings usually take place eight times a year. Dates and times can be found here:
http://councilmeetings.lewisham.gov.uk/mgCalendarMonthView.aspx?GL=1&bcr=1 .

If you would like to present your petition to the Council, or would like your Councillor to present it on your behalf, please contact the Head of Governance Support on 020 8314 9327 at least 5 working days before the meeting and they will talk you through the process.

2. WHAT ARE THE GUIDELINES FOR SUBMITTING A PETITION ?

2.1 Petitions submitted to the Council must include:-

• A clear and concise statement covering the subject of the petition. It should state what action the petitioners would like the Council to take.

• The name, address and signature of any person supporting the petition.

2.2 Petitions should be accompanied by contact details, including an address for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the

petition organiser will not be placed on the Council's website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

2.3 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case we will write to you to explain the reasons.

3. WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?

3.1 We will send an acknowledgement to the petition organiser within 14 days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

3.2 If the Council can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

3.3 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected Mayor), or on a matter where there is already an existing right of appeal such as Council Tax banding and non domestic rates, other procedures apply. If you require information on any of these matters you should in the first instance contact the Head of Governance Support, London Borough of Lewisham, Council's main offices, Catford SE6 4RU [020 8314 9327 committee@lewisham.gov.uk].

3.4 We will not take any action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

3.5 To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (with personal details removed). When you sign an e-petition you can choose to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed unless you request it.

4. HOW WILL THE COUNCIL RESPOND TO PETITIONS?

4.1 Our response to a petition will depend on what a petition asks for and how many people have signed it but may include one or more of the following:-

4.2
- Taking the action requested in the petition
- Considering the petition at a Council meeting
- Holding an enquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by a relevant Council Overview and Scrutiny Select Committee * or Business Panel **
- Writing to the petition organiser setting out our views about the request in question

4.3 * Overview and Scrutiny Select Committees are Committees of councillors who are responsible for scrutinising the work of the Council – in other words they have the power to hold the Council's decision makers to account.

4.4 ** Business Panels are Committees of councillors consisting mainly of the Chairs and Vice Chairs of Overview and Scrutiny Select Committees. They have the power to hold Council decision makers to account where the issue is within the remit of more than one Select Committee.

4.5 In addition to these steps the Council will consider other specific actions it may be able to take on the issues highlighted in a petition.

4.6 If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will aim to make representations on behalf of the community to the relevant body. The Council works with a large number of local partners http://www.lewishamstrategicpartnership.org.uk and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible here http://www.lewisham.gov.uk/myservices/Pages/default.aspx?t=0.

4.7 If your petition is about something that a different Council is responsible for, we will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

5. FULL COUNCIL DEBATES

5.1 If a petition contains more than 8,000 signatures it will be debated by the full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The petition organiser will be given 5 minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. If it within their remit, the Council may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. If the matter relates to a decision which it is for the Mayor to make, then the Council may ask the Mayor to consider the matter or commission further investigation into the matter, for example by the relevant Overview and Scrutiny Select Committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website.

6. OFFICER EVIDENCE

6.1 Your petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example your petition may ask a senior Council officer to explain progress on an issue or to explain the advice given to elected members to enable them to make a particular decision.

6.2 If your petition contains at least 4,000 signatures the relevant senior officer will give evidence at a public meeting of the relevant Overview and Scrutiny Select Committee. If the subject matter of the petition falls within the remit of more than one Overview and Scrutiny Select Committee, the senior officer will give evidence at a public meeting of the Council's Business Panel. A list of the senior staff that can be called to give evidence can be found here :
http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/council-structure/Pages/management-structure-charts.aspx
You should be aware that the Overview and Scrutiny Select Committee or Business Panel may decide that it would be more appropriate for another officer on that list to give evidence instead of any officer named in the

petition – for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting but you will be able to suggest questions to the Chair of the Select Committee/Business Panel by contacting committee@lewisham.gov.uk up to 5 working days before the meeting.

7. E-PETITIONS

7.1 The Council welcomes e-petitions which are created and submitted through our website:

http://www.lewisham.gov.uk/getinvolved/influence/Pages/Petitions.aspx .

The petition organiser will need to provide us with their name, postal address, post code and email address. You will also need to decide how l long you would like your petition to be open for signatures. Most petitions run for 6 months but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

7.2 When you create an e-petition, it may take 10 working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature. However we will make every effort to ensure that your petition is published as soon as possible.

7.3 If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and re-submit your petition if you wish. If you do not do this within 14 days, a summary of the petition and the reason why it has not been accepted will be published under the “Rejected Petitions” section of the website.

7.4 When an e-petition has closed for signature, it will automatically be submitted to The Head of Governance Support committee@lewisham.gov.uk. In the same way as a paper petition you will receive an acknowledgement within 14 days. If you would like to present your e-petition to a meeting of the Council please contact The Head of Governance Support] (details above) within 5 days of the petition closing. A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement and response will also be published on this website.

8. HOW DO I SIGN AN E-PETITION?

You can see all the e petitions currently available here:

http://www.lewisham.gov.uk/getinvolved/influence/Pages/Petitions.aspx .

8.1 When you sign an e-petition you will be asked to provide your name, address, post code and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your "signature" will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

9. WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?

9.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's relevant Overview and Scrutiny Committee/Business Panel review the steps that the Council has taken in response to your petition. The Select Committee/Business Panel will consider your request within 30 days of receiving it. Should the Select Committee/Business Panel determine we have not dealt with your petition adequately it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendation to the Council's Mayor and Cabinet and/or arranging for the matter to be considered at a meeting of the full Council.

9.2 Once the appeal has been considered, the petition organiser will be informed of the results within 7 days. The results of the review will also be published on our website.

# APPENDIX 3

# Protocol for Recording Council Meetings

## APPENDIX 3

## LONDON BOROUGH OF LEWISHAM
## PROTOCOL FOR RECORDING COUNCIL MEETINGS

1. This Protocol reflects the Openness of Local Government Bodies Regulations which make provision about the recording of Council proceedings held in public and are due to come into force on 31st July 2014. These regulations allow for contemporaneous reporting (filming, audio, social media etc) at open Council meetings. The purpose of the Protocol is to set out how this will operate in practice in Lewisham. It is designed to balance the need for transparency with the rights of others present, especially other members of the public, to know that reporting may occur and enable them to make choices about how to respond.

2 The Protocol applies to all meetings held by the Council which are open to the public. This includes any meeting of the Council which the public may lawfully attend, such as Council meetings, committee meetings, sub-committee meetings, panels and boards Recording is not allowed during any part of meeting which is not open to the public.

3 While meetings are open to the public, any person who is present may report on that meeting as it takes place, provided they comply with the provisions of this Protocol.

(c) Reporting may be by a number of means, including:-

(a) filming, photographing or making an audio recording of proceedings;

(b) reporting or providing commentary on proceedings, orally or in writing, so that the report or commentary is available either as the meeting takes place or later;

(c) other means to enable persons not present to see or hear the proceedings either as they occur, or later.

5 The Council will ensure, so far as practicable, that anyone attending an open meeting will be given reasonable facilities to carry out their reporting.

6 Anyone who wants to attend an open meeting to carry out reporting of all or part of that meeting must contact the Council's committee clerk who will be attending the meeting in advance. This is to make sure that appropriate arrangements may be made to facilitate the recording in a manner which is open, fair and provides an opportunity for any other persons attending

to be made aware that proceedings may be recorded. Such prior contact with the committee clerk must take place before the meeting is opened.

7 If any person attending an open meeting tries to report on that meeting without having first contacted the committee clerk, then it shall be at the sole discretion of the Chair of the Committee meeting whether or not to allow that reporting to continue. The Chair's decision shall be final.

8. The filming, videoing, photographing or other means of recording of open meetings must not disturb the conduct of the meeting and so may only take place from locations within the room as arranged with the committee clerk and agreed by the Chair.

9. If during the meeting the Chair is of the view that any recording is disruptive or distracting to the good order and conduct of the meeting, then he/she may require that recording be stopped. The Chair's decision shall be final.

10. To minimise disruption to others attending the meeting, everyone present must ensure that their phones and other mobile devices are either switched off or set to silent mode during the meeting.

11. Should the press and public be excluded from any meeting or part of a meeting, then there may be no reporting/filming/ etc during the time that the press and public are excluded.

12 Anyone who makes a visual recording shall be requested to focus their recording only on members, Council officers, and those members of the public who are directly involved / participating in the conduct of the meeting.

13 At the beginning of a meeting which is open to the public, the Chair will inform everyone present that proceedings may be recorded by means of social media, audio recording, photographed and /or filmed. Notices will also be placed in the meeting room informing attendees of this. Meeting agendas will also carry this message.

14 Members of the public who may not wish to be photographed and / or filmed will be asked to sit away from the area being photographed and / or filmed, wherever possible. Whilst the Council will take reasonable precautions to ensure that members of the public who do not wish to be photographed / filmed / recorded by anyone at a meeting are not filmed / photographed / recorded, ultimately the Council cannot offer complete assurance about this to anyone. Once the Chair has advised those present that recording may take place, it will be the responsibility of those

attending to choose whether they participate, where they sit, and whether they stay or leave.

# APPENDIX 4

# Pension Board
# Detailed Terms of Reference

# APPENDIX 4

## PENSION BOARD - DETAILED TERMS OF REFERENCE

### Introduction

1. This document sets out the terms of reference of the Local Pension Board of the London Borough of Lewisham (the 'Administering Authority') a scheme manager as defined under Section 4 of the Public Service Pensions Act 2013. The Local Pension Board (hereafter referred to as 'the Board') is established in accordance with Section 5 of that Act and under regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).

2. The Board is established by the Administering Authority and operates independently of the Pension Investment Committee. Relevant information about its creation and operation are contained in these Terms of Reference.

3. The Board is not a committee constituted under Section 101 of the Local Government Act 1972 and therefore no general duties, responsibilities or powers assigned to such committees or to any sub-committees or officers under the constitution, standing orders or scheme of delegation of the Administering Authority apply to the Board unless expressly included in this document.

4. The Board shall be constituted separately from the Pension Investment Committee constituted under Section 101 of the Local Government Act 1972 with delegated authority to execute the function of the Administering Authority.

### Interpretation

5. The following terms have the meanings as outlined below:

| | |
|---|---|
| '**the Act**' | The Public Service Pensions Act 2013 |
| **'the Code'** | means the Pension Regulator's Code of Practice No 14 governance and administration of public service pension schemes |
| **'the Committee'** | London Borough of Lewisham's Pension Investment Committee who has delegated decision making powers for the Pension Fund in accordance with Section 101 of the Local Government Act 1972. |
| '**the Fund**' | means the Pension Fund that is managed and administered by the London Borough of Lewisham as Administering Authority. |

| | |
|---|---|
| **'the Guidance'** | means the guidance on the creation and operation of local pension boards issued by the Shadow Scheme Advisory Board. |
| **'the Regulations'** | means the Local Government Pension Scheme Regulations 2013 (as amended from time to time); the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended from time to time), including any earlier regulations as defined in these regulations to the extent they remain applicable and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended from time to time). |
| **'Relevant legislation'** | means relevant overriding legislation as well as the Pension Regulator's Codes of Practice as they apply to the Administering Authority and the Board, notwithstanding that the Codes of Practice are not legislation. |
| **'the Scheme'** | means the Local Government Pension Scheme in England and Wales. |

**Statement of Purpose**

6. The purpose of the Board is to assist the London Borough of Lewisham in its role as a scheme manager of the Scheme. Such assistance is to:

   (a) secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pension Regulator in relation to the Scheme; and

   (b) to ensure the effective and efficient governance and administration of the Scheme.

**Duties of the Board**

7. The Board should at all times act in a reasonable manner in the conduct of its purpose. In support of this duty Board members should be subject to and abide by the code of conduct for Board members.

**Establishment**

8. The Board is established on 1 April 2015.

**Membership**

9. The Board shall consist of 4 voting members, as follows:

   2 Scheme Representatives; and

   2 Employer Representatives.

10. There shall be an equal number of Member and Scheme Employer Representatives.

11. There shall also be one other member who will be appointed as Chair, who is not entitled to vote.

**Scheme Member Representatives**

12. Scheme Member representatives shall either be scheme members or have capacity to represent scheme members of the Fund.

13. Scheme Member representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.

14. Substitutes shall not be appointed.

15. A total of 2 Scheme member representatives shall be appointed as follows:-

    (a) 1 Scheme member representative shall be nominated by the trade union with the largest number of Lewisham Scheme members in its membership.

    (b) 1 Scheme member representative shall be nominated by a transparent process open to all Fund members and approved by the Council.

**Employer Representatives**

16. Employer representatives shall be office holders or senior employees of employers of the Fund or have experience of representing scheme employers in a similar capacity. No officer or elected member of the London Borough of Lewisham who is responsible for the discharge of any function of the London Borough of Lewisham under the Regulations may serve as a member of the Board.

17. Employer representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.

18. Substitutes shall not be appointed.

19. A total of 2 employer representatives shall be appointed to the Board by the Council where all employers have been asked to submit their interest in undertaking the role of employer representative on the Board.

**Other Members**

20. The independent member (Chair) shall be appointed to the Board by the agreement of the London Borough of Lewisham.

21. Other members (who are not scheme member nor employer representatives) do not have voting rights on the Board.

**Appointment of Chair**

22(a) Subject to the meeting arrangements in paragraphs 35 to 37 below a Chair shall be appointed for the Board using the processes listed below:

22(b) An independent chair is to be appointed by the London Borough of Lewisham but shall count as an 'other' member under paragraphs 20-21 above. In this respect the term independent means having no existing employment, financial or other material interest in either the London Borough of Lewisham or any scheme employer in the Fund and not being a member of the Fund. The appointment of the Chair shall be subject to the passing of a motion to confirm by a majority of the employer and member representatives of the Board.

**Duties of Chair**

23. The Chair of the Board:

(a) Shall ensure the Board delivers its purpose as set out in these Rules of Procedure.

(b) Shall ensure that meetings are productive and effective and that opportunity is provided for the views of all members to be expressed and considered, and

(c) Shall seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached. Instances of a failure to reach a consensus position will be recorded and published.

**Notification of appointments**

24. When appointments to the Board have been made the London Borough of Lewisham shall publish the name of Board members, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

**Term of Office**

25. Board members shall normally be appointed at the first AGM following a local Council election and serve until the first AGM after the next local Council election. Extensions to terms of office may be made by the London Borough of Lewisham with the agreement of the Board.

26. Initially the Council will appoint:

    (a) 1 employer representative and scheme member to serve until the Council's AGM in 2017

    (b) 1 employer representative and scheme member representative to serve until the Council's AGM in 2018.

27. A Board member may be appointed for further terms of office using the methods set out in paragraphs 15 and 19.

28. Board membership may be terminated prior to the end of the term of office due to:

    (a) A member representative appointed on the basis of their membership of the scheme no longer being a scheme member in the Fund.

    (b) A member representative no longer being a scheme member or a representative of the body on which their appointment relied.

    (c) An employer representative no longer holding the office or employment or being a member of the body on which their appointment relied.

    (d) A Board member no longer being able to demonstrate to the London Borough of Lewisham their capacity to attend and prepare for meetings or to participate in required training.

    (e) The representative being withdrawn by the nominating body and a replacement identified.

    (f) A Board member has a conflict of interest which cannot be managed in accordance with the Board's conflict policy.

    (g) A Board member who is an elected member becomes a member of the Committee.

    (h) A Board member who is an officer of the London Borough of Lewisham becomes responsible for the discharge of any function of the London Borough of Lewisham under the Regulations.

**Conflicts of interest**

29. All members of the Board must declare to the London Borough of Lewisham on appointment and at any such time as their circumstances change, any potential conflict of interest arising as a result of their position on the Board.

30. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the Scheme.

31. On appointment to the Board and following any subsequent declaration of potential conflict by a Board member, the London Borough of Lewisham shall ensure that any potential conflict is effectively managed in line with both the internal procedures of the Board's conflicts policy and the requirements of the Code.

**Knowledge and understanding (including Training)**

32. Knowledge and understanding must be considered in light of the role of the Board to assist the London Borough of Lewisham in line with the requirements outlined in paragraph 6 above. The Board shall establish and maintain a Knowledge and Understanding Policy and Framework to address the knowledge and understanding requirements that apply to Board members under the Act. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated.

33. Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding policy framework.

34. Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

**Meetings**

35. The Board shall as a minimum meet 1 time each year, but may determine to meet more regularly.

36 The Chair of the Board with the consent of the Board membership may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board, including telephone conferencing and emails.

**Quorum**

37. A meeting is only quorate when at least 50% of both scheme member and employer representatives are present.

38. A meeting that becomes inquorate may continue but any decisions will be non-binding.

**Board administration**

39. The agenda and supporting papers will be issued at least 5 working days (where practicable) in advance of the meeting except in the case of matters of urgency.

40. Draft minutes of each meeting including all actions and agreements will be recorded and circulated to all Board members. These draft minutes will be subject to formal agreement by the Board at their next meeting. Any decisions made by the Board should be noted in the minutes and in addition where the Board was unable to reach a decision such occasions should also be noted in the minutes.

41. The minutes may with the agreement of the Board, be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

42. Officers shall arrange such advice as is required by the Board subject to such conditions as are listed in these Terms of Reference for the use of the budget set for the Board.

43. Officers shall ensure an attendance record is maintained along with advising the London Borough of Lewisham on allowances and expenses to be paid under these terms.

**Public access to Board meetings and information**

44. Generally the public will be given access to Board meetings, if they would be entitled to access to its meeting if it were established as a formal Council Committee.

45. Observers are welcome to record any part of any board meeting that is open to the public. The Council cannot guarantee that anyone present at a board meeting will not be filmed or recorded by anyone who may then use the image or sound recording.

46. The following will be entitled to attend Board meetings in an observer capacity:

(a) Members of the Pensions Investment Committee;
(b) Any person requested to attend by the Board.

Any such attendees will be permitted to speak at the discretion of the Chair.

47. In accordance with the Act the London Borough of Lewisham shall publish information about the Board to include:

(a) The names of Board members and their contact details.
(b) The representation of employers and scheme members on the Board.
(c) The role of the Board.
(d) These Terms of Reference.

48. The London Borough of Lewisham shall also publish other information about the Board including:

(a) Agendas and minutes
(b) Training and attendance logs
(c) An annual report on the work of the Board to be included in the Fund's own annual report.

49. All or some of this information may be published using the following means or other means as considered appropriate from time to time:

(a) On the Fund's website.
(b) As part of the Fund's Annual Report.
(c) As part of the Governance Compliance Statement.

50. Information may be excluded on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

**Expenses and allowances**

51. The London Borough of Lewisham will reimburse the reasonable travel expenses of Board members in line with the London Borough of Lewisham's policy on expenses as set out in the Council's Constitution.

52. The London Borough of Lewisham shall pay to the Chair of the Pension Board an allowance equivalent to that paid to a co-opted member of the Standards Committee. In 2015/16 this is £600 per annum. Other members of the Board shall not receive any remuneration.

**Budget**

53. The Board is to be provided with adequate resources to fulfil its role. In doing so the budget for the Board will be met from the Fund. The full Council will approve its budget on an annual basis. The budget will be managed by and at the discretion of the Board.

**Core functions**

54. The first core function of the Board is to assist the London Borough of Lewisham in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme.

55. The second core function of the Board is to ensure the effective and efficient governance and administration of the Scheme.

56. In support of its core functions the Board may make a request for information to the Committee or Council officers with regard to any aspect of the London Borough of Lewisham's function. Any such request should be reasonably complied with in both scope and timing subject to data protection.

57. In support of its core functions the Board may make recommendations to the Committee or Council officers which should be considered and a response made to the Board on the outcome within a reasonable period of time.

**Reporting**

58. The Board should in the first instance report its requests, recommendations or concerns to the Committee or Council officers. In support of this any member of the Board may attend a Committee meeting as an observer.

59. Requests and recommendations should be reported under the provisions of paragraphs 57 and 58 above.

60. The Board should report any concerns over a decision made by the Committee to the Committee subject to the agreement of at least 50% of voting Board members provided that all voting members are present. If not all voting members are present then the agreement should be of all voting members who are present, where the meeting remains quorate.

61. On receipt of a report under paragraph 60 above the Committee should within a reasonable period, consider and respond to the Board.

62. Where the Board is not satisfied with the response received it may request that a notice of its concern be placed on the website and in the Fund's annual report.

63. Where the Board is satisfied that there has been a breach of regulation which has been reported to the Committee under paragraph 60 and has not been rectified within a reasonable period of time it is under an obligation to escalate the breach.

64. The appropriate internal route for escalation is to the Monitoring Officer.

65. The Board may report concerns to the LGPS Scheme Advisory Board for consideration subsequent to, but not instead of, using the appropriate internal route for escalation.

66. Board members are also subject to the requirements to report breaches of law under the Act and the Code and the whistleblowing provisions set out in the London Borough of Lewisham's whistleblowing policy.

**Review of terms of reference**

67. These Terms of Reference shall be reviewed on each material change to those part of the Regulations covering local pension boards and at least every 12 months.

68. These Terms of Reference were adopted at a meeting of the London Borough of Lewisham on 25 February 2015 to be effective from 1 April 2015.

# APPENDIX 5

## JOINT HEALTH OVERVIEW & SCRUTINY COMMITTEE TERMS OF REFERENCE

The Joint Health Overview and Scrutiny Committee is constituted in accordance with the Local Authority Public Health, Health & Wellbeing Boards and Health Scrutiny Regulations 2013 (the "Regulations") and Department of Health Guidance to respond to substantial reconfiguration proposals covering more than one Council area from the Our Healthier South East London programme ("OHSEL"). OHSEL is a proposal devised by the 6 CCGs covering the London Boroughs of Bexley, Bromley, Greenwich, Lambeth, Lewisham and Southwark. It proposes a five year commissioning strategy for the areas covered by the 6 London Boroughs represented on this joint overview and scrutiny committee. The CCGs state that the programme is developed to improve health, reduce health inequalities and ensure all health services in South East London meet safety and quality standards consistently and are sustainable in the longer term.

The Joint Committee's terms of reference are:

1. To undertake all the functions of a statutory Joint Health Overview and Scrutiny Committee in accordance with the Regulations and Department of Health Guidance. This includes, but is not limited to the following:-

   (a) To consider and respond to the proposals from the OHSEL for the reconfiguration of Health Services in South East London.

   (b) To scrutinise any consultation process conducted by the 6 CCGs in relation to OHSEL, but not to replicate any consultation process.

   (c) This does not include the power to make any decision to make a referral to the Secretary of State in relation to the proposals from the CCGs for Bexley, Bromley, Greenwich, Lambeth, Lewisham and Southwark. However, any individual borough may make a specific delegation to the JHOSC in relation to their own power to make such a referral on their behalf.

**Membership**

Membership of the Committee will be two named Members from each of the following local authorities:-

London Borough of Bexley;
London Borough of Bromley;
London Borough of Greenwich;
London Borough of Lambeth;

London Borough of Lewisham;
London Borough of Southwark.

Members must not be an Executive Member.

**PROCEDURES**

**Chair and Vice-Chair**

1. The Committee will appoint a Chair and Vice-Chair at its first meeting. The Chair and Vice-Chair should be members of different participating authorities.

**Substitutions**

2. Substitutes may attend Committee meetings in lieu of nominated members. Continuity of attendance throughout the review is strongly encouraged however.

3. It will be the responsibility of individual committee members and their local authorities to arrange substitutions and to ensure that the lead authority is informed of any changes prior to the meeting.

4. Where a substitute is attending the meeting, it will be the responsibility of the nominated member to brief them in advance of the meeting

**Quorum**

5. The quorum of the meeting of the Joint Committee will be 4 members, each of whom should be from a different participating authority.

**Voting**

6. It is hoped that the Committee will be able to reach their decisions by consensus. However, in the event that a vote is required each member present will have one vote. In the event of there being an equality of votes, the Chair of the meeting will have the casting vote.

7. On completion of the scrutiny review by the Joint Committee, it shall produce a single final report, reflecting the views of all the local authorities involved.

**Meetings**

8. Meetings of the Joint Committee will normally be held in public and will take place at venues within South East London. The normal access to information provisions applying to meetings of the Overview and Scrutiny committees will apply. However, there may be occasions on which the Joint Committee may need to make visits outside of the formal Committee meeting setting.

9. Meetings shall last for up to two hours from the time the meeting is due to commence. The Joint Committee may resolve, by a simple majority, before the expiry of 2 hours from the start of the meeting to continue the meeting for a maximum further period of up to 30 minutes.

**Local Overview and Scrutiny Committees chairing**

10. The Joint Committee will encourage its Members to inform their local overview and scrutiny committees of the work of the Joint Committee and any proposals contained within the OHSEL programme.

11. The Joint Committee will invite its Members to represent to the Joint Committee the views of their local overview and scrutiny committees on the OHSEL programme and the Joint Committee's work.

**Communication**

12. The Joint Committee will establish clear lines of communication between the NHS, participating local authorities and itself. All formal correspondence between the Committee, local authorities and the NHS on this matter is administered by *(named officer/borough to be determined)* or *(other)* until such officer is appointed.

**Representations**

13. The Joint Committee will identify and invite witnesses to address the committee and may wish to undertake consultation with a range of stakeholders.

**Support**

14. Administrative and research support will be provided by the scrutiny teams of the 6 boroughs working together.

**Assumptions**

15. The Joint Committee will be based on the following assumptions:-

    (a) That the Joint Health Scrutiny Committee is constituted to respond to the work of the OHSEL Programme including any proposals it puts forward and any consultation it may carry out, as well as comment on the public and patient involvement activity in which the NHS has engaged in relation to this matter.

    (b) That the OHSEL Programme will permit the Joint Health Scrutiny Committee access to the outcome of any public consultation phase prior to the formulation and submission of the Joint Committee's response to such public consultations.

# APPENDIX 6

# Lewisham Standing Advisory Council On Religious Education

# Lewisham SACRE

# CONSTITUTION

## Approved by Lewisham Council on

## November 2019

# LEWISHAM STANDING ADVISORY COUNCIL ON RELIGIOUS EDUCATION

The Standing Advisory Council shall be called the Lewisham SACRE (Standing Advisory Council on Religious Education). It is established under Section 3.90 – 3.97 of the Education Act 1996 as amended.

## Interpretation

## In this Constitution

'Local Authority' means Lewisham Council acting either independently or through the Education Lead Member and Children and Young People's Directorate.
'The council' means Lewisham's SACRE.
'Member' means a member of SACRE and includes a substitute or co-opted member.
'Elected member' means an elected member of the Lewisham Council sitting on Committee D as a SACRE member

All questions of Interpretation are governed by the "Interpretation Act" 1978 as may be subsequently amended.

## Role and functions

(i) To advise the Local Authority (Lewisham Council) on the religious education to be given in its schools in accordance with an Agreed Syllabus. In particular, the SACRE can offer advice on methods of teachings, the choice of materials and the provision of training for teachers.

(ii) To advise the Local Authority on matters pertaining to school worship in its schools.

*With regard to (i) and (ii), the Local Authority may refer matters to the SACRE, which the latter must then consider and advise on. The SACRE may also take the initiative and make recommendations to the Local Authority on these matters.*

(iii) To receive, determine and review applications from Head Teachers as to whether the requirement for collective worship that is wholly or mainly of a Christian character may not apply. This application to vary the legal requirement for collective worship may be for the whole school or for groups of pupils.

(iv) To require the LA to set up a Statutory Agreed Syllabus Conference to review the Agreed Syllabus if, in the opinion of SACRE, this becomes necessary.

(v) To produce an annual report on its work which will, inter alia:

a) describe the work that SACRE has undertaken
b) specify matters in respect of which the SACRE has given advice to the Local Authority;
c) broadly describe the nature of the advice given and the response given by the LA;
d) where any such matters were not referred to the SACRE by the Local Authority, provide the SACRE's reasons for offering advice on the matter.

Copies of the report will be made available to schools and the public on the SACRE and/or other appropriate website.

At the discretion of the Local Authority, the SACRE may:

(a) monitor the provision of Religious Education in order to inform its advice and reporting;
(b) monitor the provision of collective worship in order to inform its advice and reporting;
(c) be involved in Complaints Procedures.
(d) protect and support the South London Multifaith and Multicultural Resources Centre as
a means of promoting effective religious education within the LA

## Officers

The SACRE will have an elected Chair and an elected Vice Chair.

In the absence of the Chair or Vice-Chair at any meeting the Council can elect one of its members to act as the Chair for that meeting.

## Membership

A list of those members deemed appropriate for the Lewisham SACRE under the legal framework is in the Appendix 1.

All members shall be delegates who are interested in education in general and religious education in particular.

Delegates as members shall remain until such time as they will have resigned or have been removed from under the rules dictated by their sponsorship group, Governing Body of that class of Members or for any reason stated therein.

Members will work within the SACRE's agreed Code of Conduct (Appendix 2).

### Terms of Office of Members

Termination of SACRE membership by reason of non-attendance:

If a SACRE member is absent for 2 or more consecutive meetings without apology or for any reason not acceptable to the SACRE, the clerk will write to

the member concerned to check whether their membership has lapsed and whether they would like to nominate a substitute or to refer their membership back to their sponsoring body.

Should they be absent from the next meeting without apologies or for any reason not acceptable to the SACRE there shall be deemed to be a vacated place to be filled by the sponsorship group / governing body for that class of members. The SACRE clerk will write to the lapsed member informing them of the decision and then write to the sponsoring body requesting a new member be nominated.

**Vacancies**

The Clerk, working on behalf of the LA and the Officers will approach sponsoring bodies for new delegates as soon as a vacancy arises.

**Deputies / Substitute members**

There can be a substitute member nominated by the absent member and notice of this substitution should be notified to the clerk of SACRE at least 6 hours in advance of the meeting.

**Procedure for electing Chair and Vice Chair**

The Chair and Vice-Chair of the Council shall be chosen from Members of the SACRE and shall be elected at the first meeting in each education (academic) year.

Nominees for these positions should have served on the SACRE for at least twelve months so that members would have developed a relationship with that person and have confidence to nominate them to such an important position.

**Co-options**

Co-option – SACRE has the power to co-opt members as agreed by the majority of its members.

**Quorum**
A meeting will only be quorate if the following numbers of representative/s of the respective groups are present: -

Group A - minimum of 2 representatives (1 Christian and 1 non-Christian)
Group B - minimum of 1 representative
Group C - minimum of 1 representative
Group D – minimum of 1 representative

## Meetings

**Frequency of meetings**
There will be a minimum of 5 SACRE meetings per year. These will be normally 2 in the Autumn and Summer terms and one in the Spring term

An Extraordinary meeting may be called or convened to deal with urgent matters of national or local importance.

**Notice of meetings**
The dates of the main meetings will be decided at the first meeting in the education (academic) year and circulated by the clerk to all members

**Sub-Committees**
Occasional sub committees or working parties will be convened for specific pieces of work. These will report back to the full SACRE meeting for the duration of their work.

**Agendas**
Matters or items for the Agenda of any meeting shall be sent to the clerk at least 21 days in advance of the meeting. The Agenda shall be distributed to reach members at least 7 working days in advance of the next listed meeting.

**Voting**
All members are entitled to speak and vote on any issue as invited by the Chair but substitute or Co-opted members may speak but not vote at any meeting. SACRE will always seek to reach decisions on a consensus basis but when voting is to be exercised only one vote is allowed from each group A, B, C or D as mentioned above.

In the event of an equality of votes on any issue the Chair may exercise a casting vote.

**Minutes**
Minutes will be taken by the clerk and cleared by the Officers. The draft minutes of meetings shall be circulated to members within one month of the meeting taking place where possible or at the latest with the next set of meeting papers

**Availability of papers to the public**
Papers for each meeting will be made available on the Lewisham Council website

..... (Chair) on behalf of Lewisham SACRE

Dated: .....

## APPENDIX 1 - MEMBERSHIP

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

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

**Committee B The Church of England**

| | |
|---|---|
| Southwark Diocese | 5 representatives |

**Committee C Teachers' Professional Associations**

| | |
|---|---|
| NEU | 3 representative |
| NASUWT | 1 representative |
| Lewisham Heads and Deputies | 1 representative |
| Academies | 1 representative |

**Committee D The Local Authority**

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

Also

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

## APPENDIX 2 - LEWISHAM SACRE and Agreed Syllabus Conference

### Code of conduct

*Please note- where an Agreed Syllabus is currently working, references to SACRE also relate to the Agreed Syllabus Conference, its work, members and its Chair.*

**All representatives should:**

- be nominated by a respected professional body and / or faith and belief community and have the support of their nominating body behind them;
- regularly attend the meetings of SACRE and take part in the deliberations and work of SACRE;
- where attendance is difficult, aim to ensure a substitute member is nominated who can attend;
- ensure apologies are submitted when attendance is not possible;
- demonstrate respect to the work of the SACRE and its Chair;
- participate in and share the work of SACRE for the benefit of the whole community;
- actively challenge and resist stereotyping;
- work with all other members of SACRE , in the spirit of trust and collaboration where all are concerned with the best interests of SACRE and its work;
- state views and opinions honestly, whilst respecting and listening to each other's contributions, not denigrating each other's views or beliefs;
- respect the rights of other members to disagree with your point of view;
- express differing points of view in a spirit of respectful disagreement;
- understand that it is not the place of RE to challenge the beliefs of any member of the school community or to attempt to change those beliefs;
- have respect for the work of SACRE, believing that the RE and collective worship that all students are legally entitled to experience should be of the highest quality.

**Belief group representatives should:**

- ensure that they have sufficient knowledge, skills and understanding to represent authentically their belief, community or sponsoring body
- be able to explain how they intend to inform and consult with their belief community
- feel a sense of responsibility not only to the children coming from their own belief but also to all the children of Lewisham
- provide expertise, or assist in providing access to such expertise, in matters of tradition, theology and practice relating to their own belief for the benefit of the whole school population
- represent to SACRE the interests and concerns of their own belief community

- endeavour to represent fairly the views and interests of the widest possible range of belief positions within their community (*this is particularly relevant if they are the sole representative on SACRE for their belief*.)
- recognise that stating a belief or religious tenet is not the same as advancing an argument for or against any proposal, although it may well be an overriding consideration
- inform members of their belief community of the work of SACRE

**Teacher and teacher association representatives should:**

- provide information and expertise in relation to teaching and the school environment
- where appropriate provide information and expertise in relation to the teaching of religious education and the delivery of collective worship in schools
- represent the interests and concerns of teachers, pupils and schools
- consult with teaching colleagues and students
- keep colleagues informed about the work of SACRE
- ensure that the welfare and education, particularly religious education, of all the children in Lewisham is the primary focus of SACRE

**LA representatives should:**

- represent the wider public interest or the interest of the school communities
- provide information and expertise to SACRE in their capacity as an elected member of Lewisham Council or a school Governor
- inform SACRE of concerns or issues known to Lewisham Council relating to education and in particular the provision for SMSC (spiritual, moral, social and cultural development), teaching of religious education and the delivery of collective worship in schools
- support the work of SACRE by representing its interests in Lewisham Council and to school Governing bodies
- endeavour to ensure that SACRE and the ASC are adequately resourced, funded and supported
- ensure that the legal requirements for the conduct of SACRE are observed, particularly in relation to the suitability and qualifications required to be a member of SACRE

*Members who do not work within the code of conduct will be reminded courteously of the relevant elements of this code that they are ignoring by the Chair.*
*Repeated examples of working in conflict with the code and therefore disrespectfully or in conflict with the effective work of either body will result in the issue being taken up with their sponsoring body and ultimately to a request for a replacement representative.*

## APPENDIX 7

## Schools Forum
## Terms of Reference and Composition

SCHOOLS FORUM

Schools Forum acts in a consultative role on some issues and as a decision making body on others.

Schools Forum acts in a consultative role for:

- changes to the local funding formula ( the local authority makes the final decision)
- proposed changes to the operation of the Minimum Funding Guarantee
- changes to or new contracts affecting schools
- arrangements for pupils with special educational needs, in pupil referral units and in early years provision.

Schools Forum acts in a decision making role for:

- How much funding maybe retained by the local authority within the Dedicated Schools Grant
- Any proposed carry forward of deficits on central spend from one year to the next
- Proposals to de-delegate funding from maintained primary and secondary schools
- Changes to the Scheme of Financial Management

SCHOOLS FORUM MEMBERSHIP

| | |
|---|---|
| Primary Head Teachers | 5 representatives |
| Secondary Head Teachers | 4 representatives |
| Special School Head Teachers | 1 representative |
| Primary School Governors | 2 representatives |
| Secondary School Governors | 2 representatives |
| Special School Governor | 1 representative |
| PRU Head Teaches | 1 representative |
| Nursery School Head | 1 representative |
| Academy Representatives | 2 representatives |
| Early Years – | 1 PVI representative |
| Diocesan Authority Representatives | 2 representatives |
| 14-19 Consortium Representative | 1 representative |